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# United States International Trade Commission

## Annual Report

Fiscal Year

1997

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98-014363

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*The U.S. International Trade Commission is an independent, nonpartisan, quasi-judicial federal agency that provides trade expertise to both the legislative and executive branches of government, determines the impact of imports on U.S. industries, and directs actions against certain unfair trade practices, such as patent, trademark, and copyright infringement. ITC analysts and economists investigate and publish reports on U.S. industries and the global trends that affect them. The agency also maintains the National Library of International Trade, a specialized library open to the public.*

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# **United States International Trade Commission**

## **Annual Report**

### **Commissioners**

**Marcia E. Miller, Chairman**  
**Lynn M. Bragg, Vice Chairman**  
**Don E. Newquist**  
**Carol T. Crawford**

**Fiscal Year 1997**

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Note to Readers: Commissioners Janet A. Nuzum and Peter S. Watson, whose votes appear in the tables of this report, resigned during FY 1997. Commissioner Nuzum resigned on January 31, 1997. Commissioner Watson resigned on October 31, 1996.



# MESSAGE FROM THE CHAIRMAN

The United States International Trade Commission has completed yet another challenging year. In Fiscal Year (FY) 1997, the Commission found its services in increased demand, both in its administration of U.S. trade remedy laws and in its support to trade policymakers in Congress and the Executive Branch.

By statute, the Commission's essential mandate is to ensure that domestic import remedy statutes are fairly and objectively administered. In FY 1997, the Commission saw an increase in the number of antidumping and countervailing duty cases before it, but that increase pales in comparison to what lies ahead. In the coming year, the Commission will begin the review required by the Uruguay Round Agreements Act of all outstanding antidumping and countervailing duty orders. The prospect of reviewing hundreds of such orders is daunting, but the Commission has spent considerable time over the last year preparing to meet this new responsibility. With the first of these reviews beginning in July 1998, the Commission will undoubtedly intensify its preparations in the coming months so that it will be well equipped for this new challenge.

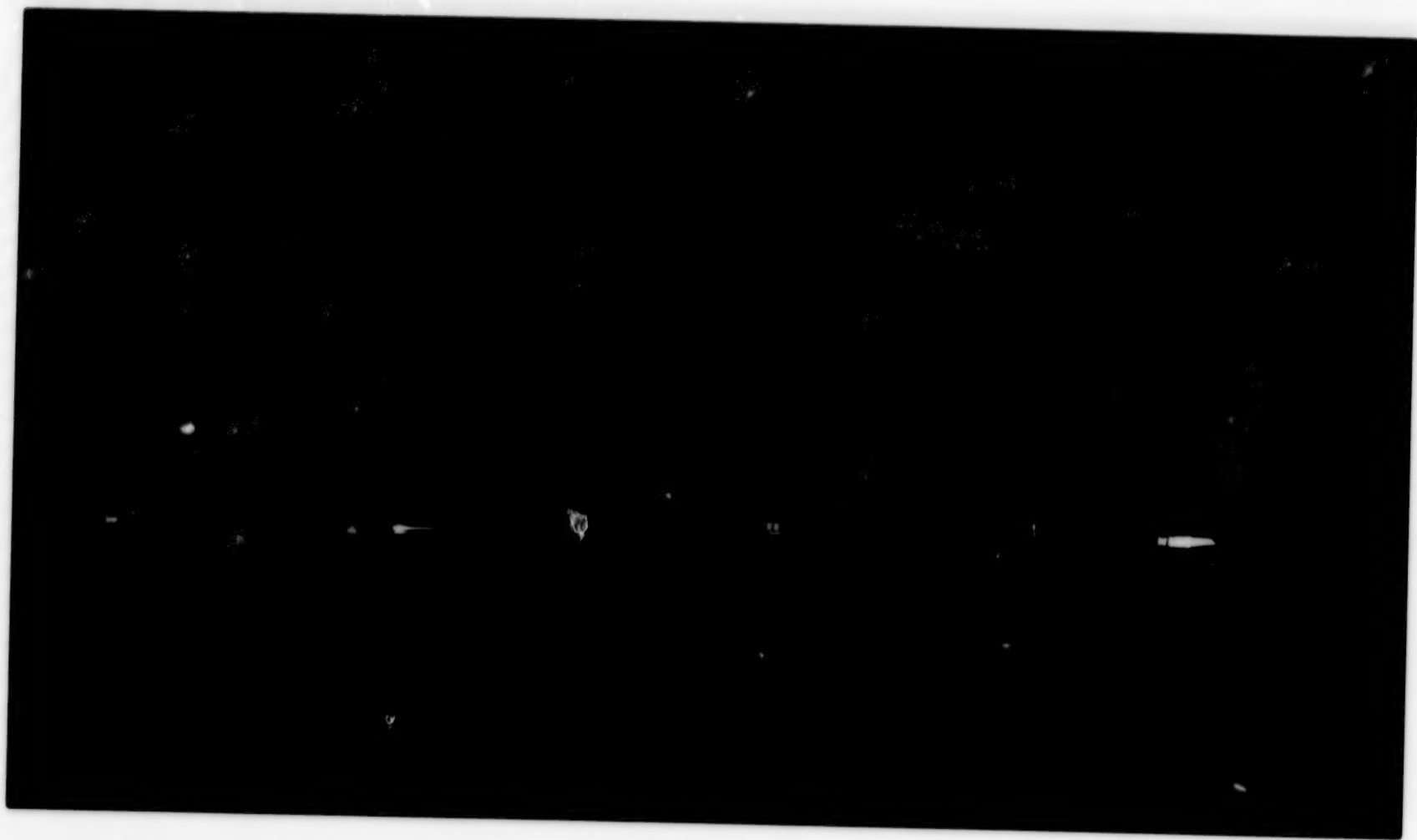
While the Commission's administration of trade remedies continues to be top priority, it also has an important charge to support U.S. trade policymakers. As international trade increases its role in the U.S. economy, this function becomes ever more important, and the Commission's constituency grows larger and more varied. In FY 1997, the Commission completed an impressive number of factfinding investigations under Section 332 of the Tariff Act of 1930. The agency is striving continually to perfect the skills needed to perform this research for the trade policy community, whether it be through the improvement of basic trade data, the development of new industry expertise, or the refinement of its analytical tools with respect to the effects of potential trade agreements.

The Commission's ability to meet its challenges today and tomorrow depends on its most important resource — its permanent staff. As an agency, the Commission excels because of the expertise, professionalism, dedication, and pride in public service of the Commission's employees. Whether addressing the significant trade issues critical to the U.S. economy or the daily ins-and-outs of running a small independent government agency, our personnel are at the heart of our mission. And for their support of me in my "rookie" year, I am deeply grateful.



Marcia E. Miller  
Chairman





# THE COMMISSION

The ITC is an independent, nonpartisan, quasi-judicial federal agency established by Congress with a wide range of trade-related mandates. Under its factfinding authority, the ITC exercises broad investigative powers on matters of trade. In its adjudicative role, the ITC makes determinations with respect to unfair trade practices. As the government's think tank on international trade, the ITC is a national resource where trade data are gathered and analyzed. Information and analysis are provided to the President and the Congress to assist them in developing U.S. trade policy.

ITC activities include —

- determining whether U.S. industries are materially injured by reason of imports that benefit from pricing at less than fair value or from subsidization;
- directing actions, subject to Presidential disapproval, against unfair trade practices such as patent infringement;
- making recommendations to the President regarding relief for

industries seriously injured by increasing imports;

- providing objective analyses of other major trade issues, including estimating the probable economic effects of trade agreements;
- analyzing the competitiveness of specific industries, seeking to identify economic factors within the industry as well as external factors that affect the industry's competitiveness;
- participating in the development of uniform statistical data on imports, exports, and domestic production and in the establishment of an international harmonized commodity code; and
- advising the President whether agricultural imports from non-WTO countries interfere with price-support programs of the U.S. Department of Agriculture.

The six Commissioners are appointed by the President and confirmed by the Senate for terms of nine years, unless appointed to fill an unexpired term. The terms are set by statute and are staggered so that a

different term expires every 18 months. A Commissioner who has served for more than five years is ineligible for reappointment. No more than three Commissioners may be members of the same political party. The Chairman and the Vice Chairman are designated

by the President and serve for a statutory two-year term. The Chairman may not be of the same political party as the preceding Chairman, nor may the President designate two Commissioners of the same political party as the Chairman and Vice Chairman.

## Summary of Investigations Completed, Fiscal Year 1997

### Tariff Act of 1930:

Section 332—general factfinding investigations . . . . .	13
Section 337—investigations of alleged unfair practices in the import and sale of imported products . . . . .	10
Antidumping and countervailing duty investigations (37 antidumping investigations—25 preliminary and 12 final; 6 countervailing duty investigations—6 preliminary and 0 final) . . . . .	43

### Omnibus Trade and Competitiveness Act of 1988:

Section 1205—modifications to the HTS . . . . .	1
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<b>Total</b> . . . . .	<b>67</b>
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Investigations completed during fiscal year 1997 and investigations pending on September 30, 1997, are shown in appendix A.

# THE COMMISSIONERS

**Marcia E. Miller**  
*Chairman*



Marcia E. Miller, a Democrat of Indiana, was designated Chairman of the ITC by President Clinton for the term ending June 16, 1998. She became a member of the Commission on August 5, 1996, to fill the Commission term ending December 16, 2003. Prior to her appointment, Ms. Miller was the Minority Chief International Trade Counselor with the U.S. Senate Committee on Finance, which has jurisdiction over U.S. foreign trade policy, customs and import matters, and the budgets of several related agencies. She was named Chief International Trade Counselor to the Finance Committee by then-Chairman Daniel Patrick Moynihan in February 1993 following five years of service as a professional staff member with the Committee. Earlier in her career, Ms. Miller was an international economist with the law firm of Wilmer, Cutler, and Pickering. Prior to that, she handled international trade issues for the American Textile Manufacturing Institute. Ms. Miller holds a master of arts degree from the School of Advanced International Studies, Johns Hopkins University, and a bachelor of arts degree from Miami University in Oxford, Ohio.

**Lynn M. Bragg**  
*Vice Chairman*



Lynn Munroe Bragg, a Republican of Maryland, was designated Vice Chairman of the ITC by President Clinton for the term ending June 16, 1998. She was appointed by President Clinton and was sworn in as a member of the Commission on March 31, 1994, for the term ending June 16, 2002. Prior to her appointment to the ITC, Ms. Bragg served in a senior management position with the Edison Electric Institute as a director of government affairs. From 1981 to 1991, Ms. Bragg served on the staff of former Senator Malcolm Wallop (R-WY) as the Legislative Director and a Legislative Assistant. Previously, she held several positions in the corporate affairs department of the Potomac Electric Power Company (PEPCO) in Washington, DC. She holds a B.A. degree with Final Honors from Mary Washington College and a M.S. degree from Boston University.



**Don E. Newquist**



Don E. Newquist, a Democrat of Texas, was appointed to the ITC to fill an unexpired term on October 18, 1988, and reappointed to a nine-year term ending December 16, 1997. Mr. Newquist served a two-and-one-half year term as Chairman of the ITC. He was first designated Chairman by President Bush on December 13, 1991, and was redesignated Chairman on June 16, 1992, for the term ending June 16, 1994. Before his appointment to the Commission, Mr. Newquist was with Valero Energy Corporation as Senior Vice President for Corporate Relations. He also served as general manager of the Chamber of Commerce of Denver, CO, and before that was with the Chamber of Commerce of Corpus Christi, TX. He is a past president of the South Texas Chamber of Commerce.

**Carol T. Crawford**



Carol T. Crawford, a Republican of Virginia, was appointed by President Bush and sworn in as a member of the Commission on November 22, 1991, for the term ending June 16, 1999. Prior to her appointment, Ms. Crawford was Assistant Attorney General (Legislative Affairs) in the U.S. Department of Justice. From 1985 to 1989, she served as Associate Director of the Office of Management and Budget where she was responsible for budget and policy oversight for five cabinet-level departments and related agencies. She served at the Federal Trade Commission as Director of the Bureau of Consumer Protection from 1983 to 1985 and as Executive Assistant to the Chairman from 1981 to 1983. Previously, she practiced law in Washington, D.C., was Senior Legislative Assistant to Senator Bob Packwood (R-OR), and was on the legislative staff of Rep. Robert Denney (R-NE). Ms. Crawford holds a B.A. from Mt. Holyoke College and a J.D., *magna cum laude*, from the Washington College of Law, American University.





# INTRODUCTION

A steady caseload, preparations for new responsibilities, and technological advancements highlighted activities at the U.S. International Trade Commission during Fiscal Year 1997.

In addition to completing 67 investigations during the year, the agency began to lay the groundwork needed to carry out its impending new requirement to review hundreds of outstanding antidumping and countervailing duty orders. Review cases under this requirement are expected to begin in FY 1998.

The ITC completed 43 title VII (mostly antidumping) investigations, 10 section 337 investigations, and 13 section 332 general factfinding investigations during FY 1997. Information on these investigations is included in the Highlights section and appendix A of this report.

Among the key factfinding investigations completed during the year were *The Impact of the North American Free Trade Agreement on the U.S. Economy and Industries: A Three-Year Review* (Inv. No. 332-381), requested by the USTR to serve as a resource for the President's legally mandated report to Congress on the NAFTA's first three years; *Fresh and*

*Processed Potatoes: Competitive Conditions Affecting the U.S. and Canadian Industries* (332-378), an investigation for the USTR that explored competition in the potato industry; *Likely Impact of Providing Quota-Free and Duty-Free Entry to Textiles and Apparel from Sub-Saharan Africa* (332-379), an assessment for the House Committee on Ways and Means of the competitiveness of the textile and apparel industries in Sub-Saharan Africa and the likely impact of granting increased access to the U.S. market for textiles and apparel from the region; and *General Agreement on Trade in Services: Examination of South American Trading Partners' Schedules of Commitments* (332-367) and *General Agreement on Trade in Services: Examination of Asia-Pacific Trading Partners' Schedules of Commitments* (332-374), two reports in a series examining the schedules of commitments agreed to by U.S. trading partners under the Uruguay Round Agreement's General Agreement on Trade in Services. Information on ITC factfinding investigations can be found in the Highlights section and appendix B of this report.

ITC staff provided technical assistance to the U.S. Trade

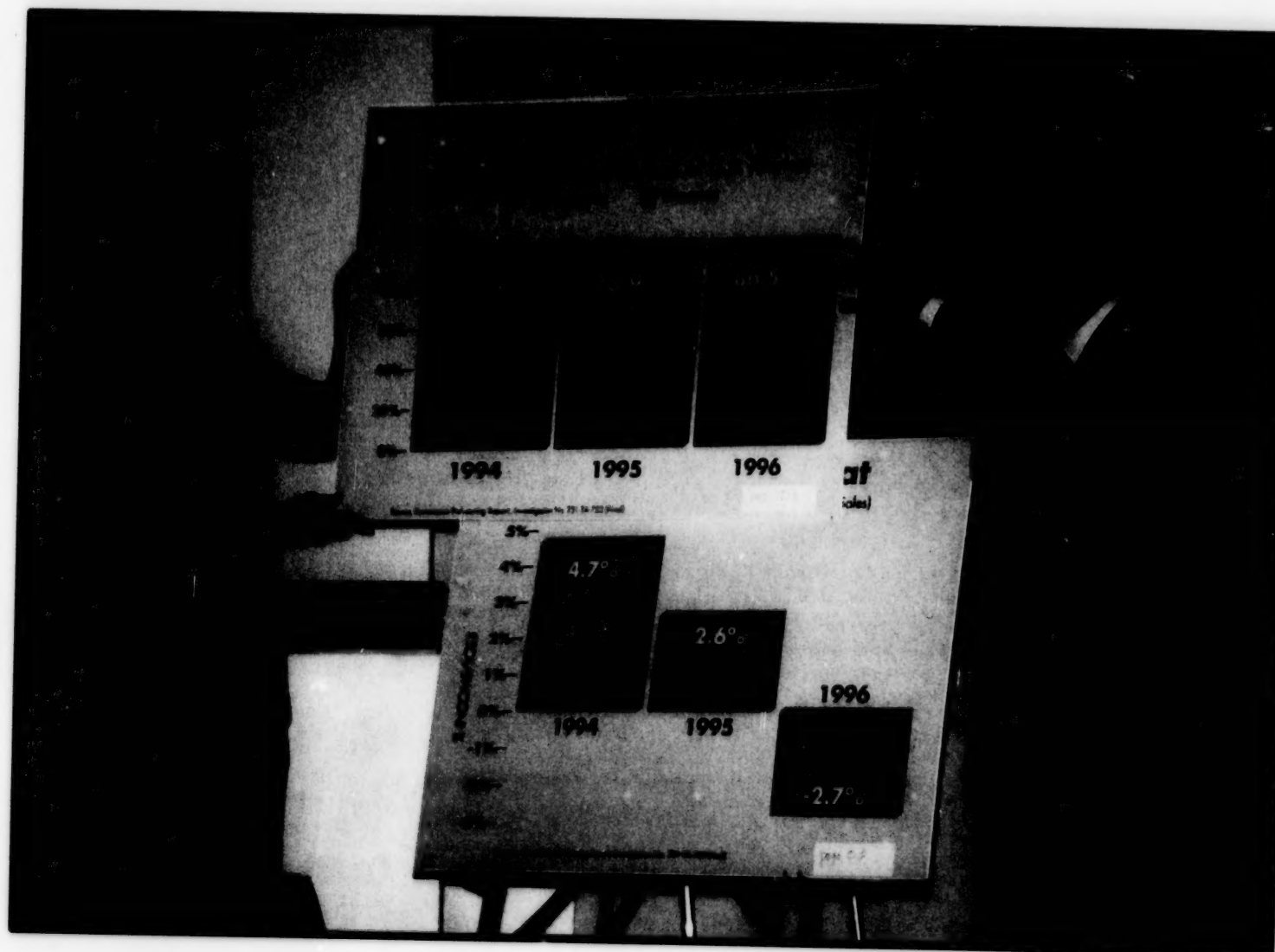
Representative throughout the year. Such assistance spanned a broad range of bilateral and multilateral trade issues and included support of activities of the World Trade Organization, the Organization for Economic Cooperation and Development, and the APEC forum.

The Commission continued to maximize its efficiency through the use of technology during FY 1997. The agency expanded its public Internet homepage, further developed its Intranet as a means of internal communication, and took steps to expand the public's use of its Electronic Document Imaging System (EDIS). In support of the agency's role as an information resource, ITC staff built an extensive tariff and trade computerized data "warehouse" during the year, then expanded on that base by developing a user-friendly self-service retrieval system to bring data to the desktop of trade analysts and economists. The tariff portion of this material is now available on the ITC's Internet server ([www.usitc.gov](http://www.usitc.gov)), offering worldwide interactive access to the U.S. tariff schedules for the first time. The trade portion of the system is still under development and promises to be a valuable tool for ITC staff to use in providing data and analysis for policy

development, research, and investigation support on trade issues.

During FY 1997, the ITC successfully renegotiated its lease, which resulted in significant savings to the U.S. government. In addition, the agency donated over 250 surplus personal computers to more than 20 schools and community-based educational organizations in the D.C. metropolitan area during FY 1997. The computers became available following the agency's recent equipment upgrade. All three of the ITC's Partner in Education (PIE) schools received donated computers, and PIE staff volunteers oversaw all aspects of the preparation and distribution process.

Finally, two Commissioners resigned during FY 1997. Commissioner Peter S. Watson resigned on October 31, 1996, and Commissioner Janet A. Nuzum resigned on January 31, 1997.



## PART I. HIGHLIGHTS

### INVESTIGATIONS UNDER TITLE VII OF THE TARIFF ACT OF 1930

Under title VII of the Tariff Act of 1930, U.S. industries may petition the government for relief from imports that are sold in the United States at less than fair value ("dumped") or which benefit from subsidies provided through foreign government programs.

Under the law, the U.S. Department of Commerce determines whether the dumping or subsidization exists and, if so, the margin of dumping or amount of the subsidy. The ITC determines whether the dumped or subsidized imports materially injure or threaten to materially injure the U.S. industry. A more detailed explanation of the antidumping/countervailing duty laws is included in appendix C.

Twenty-nine title VII petitions were filed with the Commission in FY 1997, compared with 14 in FY 1996. The majority concerned allegations of dumping (23 of the 29). The petitions covered a variety of products, including cut-to-length carbon steel plate, collated roofing nails, needle bearing wire, static random access memory semiconductors, carbon steel wire rod, ultra-high

temperature milk, fresh Atlantic salmon, and stainless steel wire rod.

The Commission also finished work on a number of cases that had been filed during FY 1996. These included beryllium metal, brake drums and rotors, crawfish tail meat, melamine dinnerware, persulfates, spun rayon yarn, steel reinforcing bar, supercomputers, and turbo compressor systems. See appendix A for a complete list of investigations and accompanying details.

### INVESTIGATIONS UNDER SECTION 337 OF THE TARIFF ACT OF 1930

Under section 337 of the Tariff Act of 1930, the ITC conducts investigations into certain alleged unfair practices in import trade. Most complaints filed under this provision involve allegations of patent infringement, trademark infringement, or misappropriation of trade secrets. A more detailed explanation of section 337 is included in appendix C.

In FY 1997, the ITC's section 337 caseload was again dominated by investigations involving complex technologies. A majority of section 337 investigations concerned

products in the computer and telecommunications fields, including digital satellite television systems, global positioning systems, logic emulation systems used to design computer chips,

screen printers used in circuit board manufacturing, and electronic "smart" cards, as well as various types of integrated circuit devices and processes for semiconductor fabrication. Several

*Senator John B. Breaux (D-Louisiana, left), pictured with Vice Chairman Lynn Bragg and Commissioner Don Norequist, testified at the ITC's hearing in connection with its final phase antidumping investigation involving Crawfish Tail Meat from China.*





***Complex technologies continued to dominate the ITC's section 337 investigation caseload during FY 1997. Attorneys in the Office of Unfair Import Investigations participate as a party representing the public interest in section 337 investigations, which require an evidentiary hearing before an administrative law judge. Here, ITC Investigative Attorney Smith Brittingham (left) consults with attorneys representing other parties prior to the beginning of the evidentiary hearing in Certain Digital Satellite System Receivers and Components Thereof.***



other investigations involved sophisticated products and technologies, including diagnostic screening kits for detecting HIV virus levels and mass spectrometers used to analyze the composition of substances. Other section 337 investigations active during the year concerned agricultural

tractors, heavy duty tires for long-haul transport vehicles, toothbrushes, pocket knives, and ornamental lamps.

During FY 1997, 18 of the Commission's section 337 investigations involved the alleged infringement of utility patents, and one investigation

involved alleged infringement of a design patent. Three investigations included allegations of trademark infringement, and one investigation involved allegations of copyright infringement. One of the trademark-based investigations also included allegations of various additional unfair acts, including unauthorized use of a proprietary design and misleading customers into believing that respondents' product was that of complainants. The Commission's caseload also included two remanded investigations, as well as a formal enforcement proceeding related to alleged violations of a consent order entered in a previously concluded section 337 investigation, and a sanctions proceeding related to another previously concluded investigation.

## **INVESTIGATIONS UNDER THE TRADE ACT OF 1974**

Under section 201 of the Trade Act of 1974, domestic industries seriously injured by increased imports may petition the ITC for import relief. Section 201 does not require a finding of an unfair trade practice, as do the antidumping/countervailing duty laws and section 337 of the Tariff Act of 1930. If the Commission makes an affirmative determination in a section 201 investigation, it recommends to the President relief that would remedy the injury and facilitate

industry adjustment to import competition. The President makes the final decision whether to provide relief and the amount of relief. A more detailed description of section 201 appears in appendix C.

The Commission instituted one global safeguard (section 201) investigation during the year, involving wheat gluten. See appendix A for details.

## **INVESTIGATIONS UNDER SECTION 332 OF THE TARIFF ACT OF 1930**

Under section 332 of the Tariff Act of 1930, the ITC conducts general investigations on any matter involving tariffs and international trade. Some of the most significant analytical section 332 studies completed during the year are highlighted below. Detailed information on other ITC reports completed during FY 1997 or pending on September 30, 1997, is provided in appendix B.

### **Studies Analyzing Various Aspects of U.S. Trade Agreements and Other Special Trade Programs**

*The Impact of the North American Free Trade Agreement on the U.S. Economy and Industries: A Three-Year Review (332-381)*

On April 22, 1997, the USTR requested that the ITC conduct an

investigation on the impact of the NAFTA on the U.S. economy and on industries particularly affected by the agreement during the agreement's first three years. The USTR indicated that the ITC report would serve as a resource for the Administration in preparing the President's legally mandated report to Congress on the operation and effects of the NAFTA during this time frame.

The ITC report, submitted in June 1997, found that the NAFTA had positive, modest effects on the U.S. economy during the agreement's first three years, that many of the NAFTA's most important effects cannot be easily quantified, and that the full effects of the NAFTA will not be known for many years. ITC staff conducted quantitative, econometric analyses of over 200 industries to identify NAFTA effects and examined industry data on 68 aggregate industry sectors to identify qualitatively the effects of the NAFTA. Together, the different approaches gave a more complete and balanced picture of the NAFTA's effects on the U.S. economy and U.S. industries than would either approach in isolation. The ITC report assessed the NAFTA's impact on the U.S. economy and on U.S. industries particularly affected by the agreement since its implementation. The report also analyzed the effects of the NAFTA on sectoral trade, employment, and productivity, as well as the aggregate effects on the U.S. economy.

*General Agreement on Trade in Services: Examination of South American Trading Partners' Schedules of Commitments (332-367)*

On April 5, 1996, the USTR requested that the ITC examine the schedules of commitments submitted by nine South American countries under the General Agreement on Trade in Services (GATS). The countries covered by the investigation were Argentina, Bolivia, Brazil, Chile, Colombia, Paraguay, Peru, Uruguay, and Venezuela. The ITC was asked to explain the commitments in non-technical language as they relate to seven service industries and to identify potential benefits and limitations that may accrue to U.S. service providers. The ITC report, submitted to the USTR in December 1996, found that commitments made by South American countries under the GATS provide a substantial foundation from which to achieve progressive liberalization. The report further found that, due to widespread omission of commitments on some service industries, the South American schedules provide only modest immediate benefits to U.S. service providers; however, by presenting some information on impediments to trade in services when little was available previously, and by establishing a framework for future negotiations, the GATS provides a substantial foundation from which to achieve progressive liberalization. The ITC investigation examined the following

industries: distribution services (defined as wholesaling, retailing, and franchising services); education services; communications services (e.g., enhanced telecommunication services, courier services, and audiovisual services); health care services; professional services (e.g., accounting, engineering, construction, architectural, advertising, and legal services); land-based transportation services; and travel and tourism services.

*General Agreement on Trade in Services: Examination of Asia-Pacific Trading Partners' Schedules of Commitments (332-374)*

On November 12, 1996, the USTR requested that the ITC examine the schedules of commitments submitted by 10 Asia-Pacific trading partners under the General Agreement on Trade in Services (GATS), explaining the

**Commissioner Carol T. Crawford (left) talks with Senator Susan M. Collins (R-Maine) at the ITC's hearing in connection with its factfinding investigation concerning Fresh and Processed Potatoes: Competitive Conditions Affecting the U.S. and Canadian Industries.**



commitments in non-technical language, and identify the potential benefits and limitations of the commitments. The countries covered by the investigation were Australia, Hong Kong, India, Indonesia, Korea, Malaysia, New Zealand, the Philippines, Singapore, and Thailand. The ITC report, submitted to the USTR in August 1997, found that commitments made by Asia/Pacific trading partners under the GATS lay an effective foundation from which to achieve progressive liberalization of international trade and investment in services. The ITC further found that the schedules of commitments submitted by Asia/Pacific trading partners vary significantly from one partner to another; that treatment of industries also varied considerably across trading partners; and that capital investment issues appear to be of considerable concern among Asia/Pacific trading partners, several of which scheduled restrictions on foreign direct investment in service industries. The ITC report examined the following industries: distribution services (defined as wholesaling, retailing, and franchising services); education services; communications services (defined as enhanced telecommunication services, courier services, and audiovisual services); health care services; professional services (defined as accounting, advertising, and legal services); architectural, engineering, and construction services; land-based transportation ser-

vices (defined as rail and trucking services); and travel and tourism services.

### **Studies on Special Areas of Congressional or USTR Interest**

*Cattle and Beef: Impact of the NAFTA and the Uruguay Round Agreements on U.S. Trade* (332-371)

Section 58 of the Miscellaneous Trade and Technical Corrections Act of 1996 required the ITC to conduct a study for the House Committee on Ways and Means and the Senate Committee on Finance on the impact of the NAFTA and the Uruguay Round Agreements on U.S. imports and exports of live cattle for slaughter and fresh, chilled, or frozen beef. The law further required the ITC to report on the steps that have been taken by the United States since the enactment of the NAFTA to prevent the transshipment of live cattle and fresh, chilled, or frozen beef through Mexico and Canada for importation into the United States. The ITC report, submitted in July 1997, found that the NAFTA has enhanced U.S. exports of beef to Mexico, with the United States now supplying virtually all of Mexico's beef imports. The ITC also reported that the Uruguay Round Agreements have not had a significant impact on U.S.

trade in cattle for slaughter or beef. The ITC further reported that the U.S. Customs Service performed 10 NAFTA verification audits on producers of beef products in Canada and Mexico in 1995 and reported that no transshipment of live cattle and fresh, chilled, or frozen beef through Mexico and Canada for importation into the United States was detected. Also, the ITC reported that the NAFTA Implementation Act requires the Secretary of Agriculture to submit an annual report to Congress on the inspection of food and agricultural products imported into the United States in commercially significant quantities from Mexico and Canada, and that the Secretary reported that in 1995, the latest year for which data were available, the U.S. Department of Agriculture was not aware of any transshipment.

*Likely Impact of Providing Quota-Free and Duty-Free Entry to Textiles and Apparel from Sub-Saharan Africa* (332-379)

On January 13, 1997, the House Committee on Ways and Means requested that the ITC provide an assessment of the competitiveness of the textile and apparel industries in Sub-Saharan Africa and the likely impact of granting increased access to the U.S. market for textiles and apparel from the region. Legislation introduced in April 1997 (H.R. 1432, The

African Growth and Opportunity Act) would grant such trade preferences.

The ITC report, submitted in September 1997, found that allowing duty-free and quota-free entry for textiles and apparel from Sub-Saharan Africa would have a modest effect on U.S. producers' textile and apparel shipments. The report noted that seven of the 48 countries in Sub-Saharan Africa currently compete in the global textile and apparel market and could expand exports to the United States, while nine other Sub-Saharan Africa countries have the potential to expand exports to the United States. The other Sub-Saharan Africa countries are less likely to compete in the U.S. market, according to the report. The report further noted that uncertainty regarding the economic environment in Sub-Saharan Africa with respect to limited infrastructure development, macroeconomic policies, and political instability precluded assessing the extent to which foreign direct investment would be attracted to the region, particularly in the short term. However, new investment in the region resulting from preferential access to the U.S. market would likely be in the apparel sector, according to the report. Entry barriers for production of apparel, compared with that for textiles, are generally minimal in terms of capital and infrastructure requirements.



*Advice Concerning the Addition of Certain Pharmaceutical Products and Chemical Intermediates to the Pharmaceutical Appendix to the Harmonized Tariff Schedule of the United States (332-376)*

On December 18, 1996, the USTR requested that the ITC provide advice concerning the addition of certain pharmaceutical products and chemical intermediates to the Pharmaceutical Appendix to the Harmonized Tariff Schedule of the United States. The ITC's advice was required under section 115 of the Uruguay Round Agreements Act (19 U.S.C. 3524). The products involved were being considered for addition to the 7,000 products already covered by the Pharmaceutical Appendix to the HTS, which was implemented as part of the pharmaceutical agreement negotiated during the Uruguay Round of trade negotiations. The Pharmaceutical Appendix enumerates pharmaceutical products and chemical intermediates, as well as specified pharmaceutical product derivatives, that may be entered duty-free as a result of U.S. commitments made during the Uruguay Round. If added to the Pharmaceutical Appendix, the 496 products, and specified derivatives, would also be eligible for duty-free treatment. The ITC report, submitted in January 1997, provided a summary description

of the products contained in the existing Pharmaceutical Appendix and the modifications to be made to the appendix; an explanation of the relationship of the pharmaceutical agreement, including the Pharmaceutical Appendix, to the HTS; and estimates of current U.S. imports, and where possible, U.S. exports of the products included in the existing Pharmaceutical Appendix as well as the proposed additions to the Appendix.

*Advice Concerning the Proposed Modification of Duties on Certain Information Technology Products and Distilled Spirits (332-380)*

On February 25, 1997, the USTR requested that the ITC provide information and advice on the information technology products and distilled products under consideration for tariff modification. The Uruguay Round Agreements Act authorizes the President, subject to consultation and layover requirements, to proclaim further modifications of any duty for articles contained in a tariff category that was part of the U.S. "zero-for-zero" initiative. The President is required to obtain advice regarding such proposed actions from the ITC. The ITC report, submitted in April 1997, found that the elimination of tariffs on information technology products is expected to result in increased market access opportunities for nearly all of the participants in the

*The Commission held a two-day hearing to gather information for its section 332 factfinding investigation **The Impact of the North American Free Trade Agreement on the U.S. Economy and Industries: A Three-Year Review**. The investigation was requested by the USTR for use as a resource for the Administration to draw on in preparing the President's legally mandated report to Congress on the operation and effects of the NAFTA during this time frame. Among those testifying at the hearing was Congressman Robert F. Smith (R-Oregon), who is shown here with reporters after testifying.*



Information Technology Agreement adopted at the WTO Ministerial Conference in Singapore in December

1996. It also indicates that eliminating tariffs on distilled spirits should provide increased access to both the

United States and the European Union markets.

### **Studies Analyzing the Competitiveness of U.S. Industry**

#### *Fresh and Processed Potatoes: Competitive Conditions Affecting the U.S. and Canadian Industries (332-378)*

On January 9, 1997, the USTR requested that the ITC investigate the conditions of competition between the United States and Canada in potatoes and potato products. The USTR reported that the U.S. fresh and processed potato industries had expressed concerns about increased imports from Canada and believed that these imports might be benefiting from Canadian government policies and industry pricing practices. The USTR requested that the ITC report on factors affecting trade between the United States and Canada in fresh table stock potatoes, seed potatoes, raw potatoes for processing, and frozen processed potatoes.

The ITC report, submitted in July 1997, found that increasing imports of fresh table stock potatoes appear to have little effect on U.S. production and prices nationally but do appear to directly displace fresh table stock potatoes produced and consumed in the Northeastern United States. The report

also indicates that there are no apparent large cost-of-production advantages between the United States and Canada in the growing of potatoes or in the production of processed potato products. The ITC further reported that U.S. federal and state government assistance to the potato growing and processing industries consists of crop insurance, disaster assistance, credit assistance, research and extension, export promotion, government purchases of potatoes and potato products for school lunch and other food programs, and past development of irrigation projects. Canadian federal and provincial governments have facilitated the development of the potato growing and processing industry through low- or zero-interest loans to processing and packing operations, financial assistance for construction of wastewater recovery facilities, grants or zero-interest loans to build potato storage facilities, low-cost land leasing arrangements, and development of irrigation facilities. Canadian farmers are also eligible for federal provincial assistance programs including direct loan and loan guarantees, crop and disaster insurance, and whole farm income insurance.

### **Studies Conducted on a Recurring Basis**

#### *U.S. Trade Shifts in Selected Industries: Services*

#### *Shifts in U.S. Merchandise Trade in 1996 (332-345)*

On August 27, 1993, the Commission instituted on its own motion an annual investigation to review U.S. trade performance, focusing on changes in U.S. imports, exports, and trade balances of key agricultural and manufactured products and on changes in U.S. bilateral trade with major trading partners. In FY 1995, the ITC expanded the scope of its investigation and launched a separate publication focusing on the U.S. service sector, which accounts for 77 percent of U.S. gross domestic product and 78 percent of the U.S. workforce. The current report on services, published in May 1997, presents a statistical overview of U.S. trade in services and provides industry-specific analyses focused on trends in exports, imports, and trade balances during 1994-95. The report concludes with an examination of extended negotiations over financial, maritime transport, and basic telecommunication services within the World Trade Organization. The 1996 annual report on merchandise trade, published in September 1997, reviews U.S. trade performance in 1996. It also profiles the U.S. industry and market for nearly 300 industry and commodity groups, providing data for 1992-96 on domestic consumption, production, employment, trade, and import penetration. The report also covers significant bilateral shifts in trade with the 10 largest U.S.

trading partners and additional discussions on trade with the European Union and the Asia-Pacific Economic Cooperation forum; bilateral/multilateral trade developments, including Chile's possible accession to the NAFTA and the possibility of U.S. economic aid for Sub-Saharan Africa; and rankings of the industry and commodity groups that experienced the most significant shifts in trade during 1996. The ITC has published trade shifts reports on a quarterly, semiannual, or annual basis since 1981.

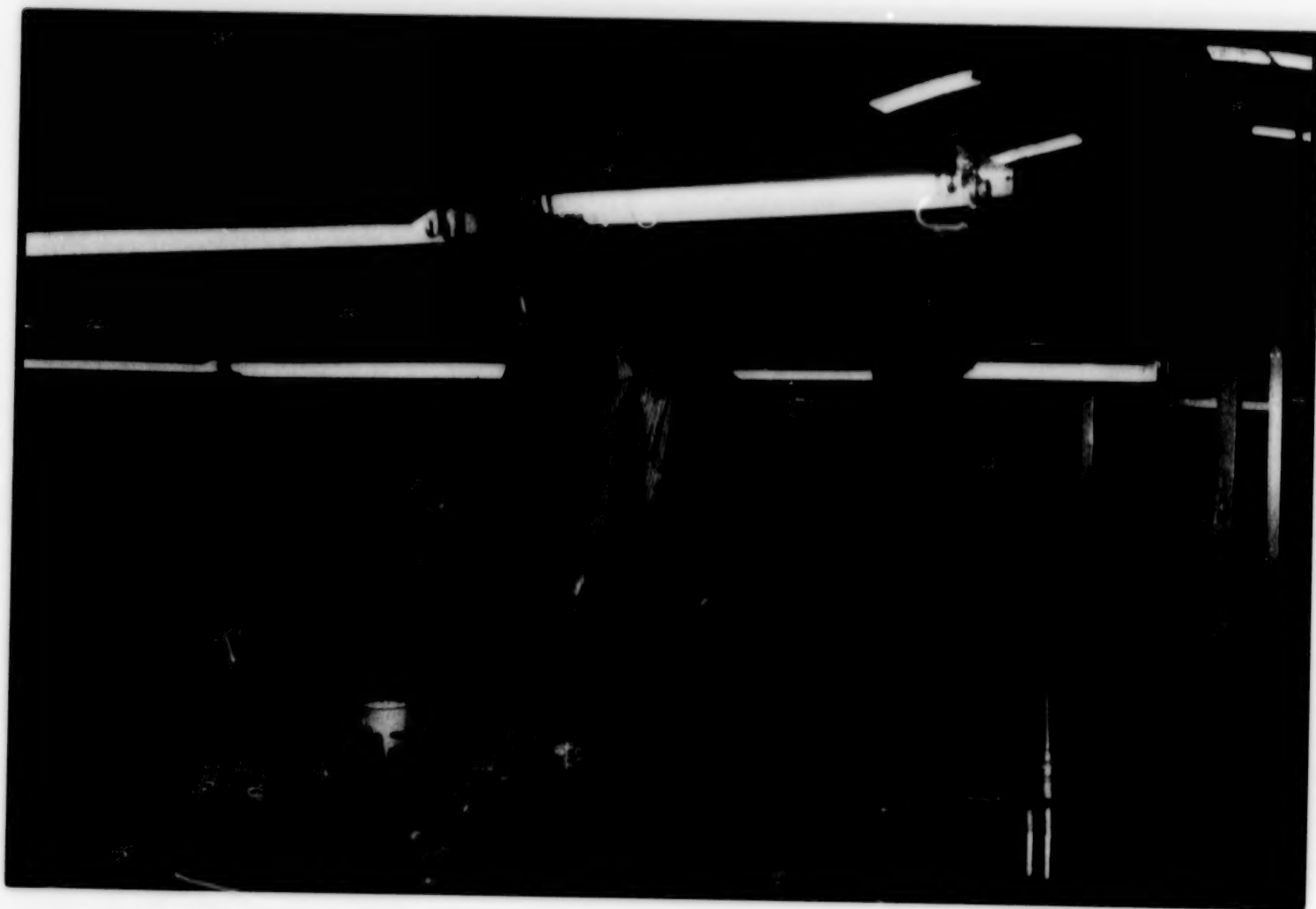
### **ANNUAL REPORT ON THE U.S. TRADE AGREEMENTS PROGRAM**

#### *The Year in Trade 1996*

Section 163(b) of the Trade Act of 1974 requires the ITC to submit to the Congress an annual report on the operations of the trade agreements program. The report, now known as *The Year in Trade*, provides the Congress with factual information on trade policy and its administration. It also serves as an historical record of the major trade-related activities of the United States for use as a general reference by government officials and others with an interest in U.S. trade relations.

*The Year in Trade 1996*, published in April 1997, provides a practical guide to U.S. international trade laws, a

report on the operation of the World Trade Organization, a review of U.S. bilateral trade agreements with major trading partners, and a survey of U.S. trade sanctions. The report also examines developments in two important regional forums—the NAFTA and APEC. The publication includes complete listings of antidumping, countervailing duty, intellectual property rights infringement, and section 301 cases undertaken by the U.S. government in 1996. An index geared to trade specialists cross-references the report by country and commodity.



## PART II. ORGANIZATIONAL ACTIVITIES

### OFFICE OF OPERATIONS

The ITC's core of investigative, industry, economic, nomenclature, and technical expertise is found within the Office of Operations. Under the supervision of the Director, staff in the component offices of Operations complete all statutory investigations, studies, and special work projects assigned by the Commission. The work includes completing the investigations within statutory deadlines and with a level of accuracy and detail suitable for subsequent review by the courts. The office is also responsible for information resources and statistical services.

During FY 1997, the office focused on its role as an information source and built an extensive tariff and trade computerized data "warehouse." Building on this base, Operations staff then developed a user-friendly self-service retrieval system to bring data to the desktops of trade analysts and economists. The tariff portion of this material is now available on the ITC Internet server (<http://www.usitc.gov>), providing worldwide interactive access for the first time to the U.S. tariff schedules. The trade portion of the interactive data retrieval system is

nearing the end of its testing period and promises to be a valuable tool for ITC use in providing data and analysis for policy development, research, and investigation support on trade issues.

### Office of Investigations

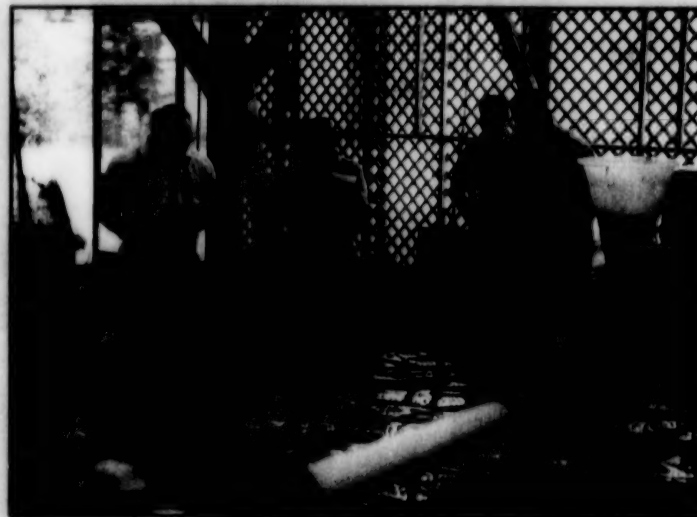
The Office of Investigations conducts the ITC's countervailing duty, antidumping, and review investigations under title VII of the Tariff Act of 1930; escape clause and market disruption investigations under the Trade Act of 1974; investigations under section 302 of the NAFTA Implementation Act of 1994; and investigations under section 22 of the Agricultural Adjustment Act.

The primary responsibility of the Office of Investigations is to prepare an objective and comprehensive report in each investigation that will enable the Commission to determine, on the basis of the facts of the investigation, whether a U.S. industry has been injured or is threatened with injury by reason of imports of products like those it produces. The key investigations conducted by Investigations during FY 1997 are discussed in the Highlights section of this report.

In each investigation, an investigative team (made up of a supervisory investigator, an investigator, and an accountant/auditor from Investigations as well as an economist, a commodity-industry analyst, and an attorney)

develops a thorough understanding of the conditions of competition within the domestic market of the industry under investigation. Largely through industry-specific questionnaires, telephone interviews, plant visits,

***Field visits are a crucial aspect of many ITC investigations, allowing staff and Commissioners to gather first-hand information about the products and processes at issue. Here, Senior International Economist Cathy DeFilippo visits a salmon hatchery in Maine in connection with the ITC's antidumping and countervailing duty investigations involving Fresh Atlantic Salmon from Chile.***





***In addition to its formal investigative activities, ITC staff is often called upon for technical assistance and "quick-response" research by the USTR and Congress. Here, Cathy Jabara (center), Chief of the Agriculture and Forest Products Division of the ITC Office of Industries, briefs Senate staff on the ITC's section 332 factfinding investigation U.S.-Africa Trade Flows and Effects of the Uruguay Round Agreements and U.S. Trade and Development Policy. Also pictured is International Trade Analyst Jean Harman (far left) and Congressional Relations Officer Nancy Carman (far right).***



consultations with technical and marketing specialists, and public hearings, the team collects and analyzes the extensive data that constitute the report to the Commission. Data presented in the staff's report include, but are not limited to, the industry's productive

capacity, actual production, capacity utilization, domestic and export shipments, inventories, imports, domestic market shares held by U.S. and foreign suppliers, employment, hours worked, productivity, wages and total compensation paid, unit labor costs,

pricing, distribution channels, and full financial data on the U.S. companies producing the product under investigation. Somewhat more limited information about the foreign industry producing the product under investigation is also collected and analyzed.

Investigations staff members work closely with officials at the U.S. Department of Commerce, the U.S. Customs Service, parties to the investigations and their attorneys, and company officials for both U.S. producers and importers of the product. Investigators also assist the USTR following Commission recommendations to the President in escape clause, market disruption, and section 22 cases.

## Office of Industries

The Office of Industries maintains technical expertise related to the performance and global competitiveness of U.S. industries and the impact of international trade on those industries. International trade analysts in the office produce studies on a range of issues each year. Studies generally are conducted under section 332 of the Tariff Act of 1930 at the request of the President or specific committees of Congress or on the ITC's own motion. Industries staff includes international trade analysts who monitor the import, export, production, and sale of more than 8,000 agricultural products, raw materials, and manufactured products

as well as a number of U.S. service industries.

Upon request, Industries analysts provide information and assistance related to international trade negotiations to the USTR. In addition to conducting factfinding investigations, Industries analysts contribute substantially to congressional bill reports, which analyze proposed tariff-related legislation. They also assist the Office of Investigations in title VII investigations. The office also publishes the *Industry, Trade, and Technology Review*, a quarterly collection of timely analytical articles developed by Industries analysts in the course of their research.

During FY 1997, the Office of Industries conducted 11 investigations under section 332, including both one-time factfinding studies and continuing industry surveys. The office also completed recurring studies and monitoring reports requested by the President, Congress, and the Commission. These reports covered nonrubber footwear, automobiles, ethyl alcohol, the U.S. services commitments under the General Agreement on Tariffs and Trade (GATT), imports of textiles and apparel in 1996, imports of tomatoes and peppers, foreign barriers to investment, and production sharing under chapter 98 of the Harmonized Tariff Schedule. The office also published its annual analyses of significant trade shifts in selected commodity areas and its separate report covering service industries.

Since the 1920s, the ITC periodically has issued a series of detailed reports on thousands of products imported into and exported from the United States. Each report, known today as an Industry and Trade Summary, addresses one or more industry sectors and contains information on product uses, customs treatment, and trends affecting consumption, production, and trade of the commodities or services covered. The Office of Industries launched its most recent series of summaries in FY 1991; during FY 1997, seven summaries were published, bringing the total number of summaries published in this series to 120.

## Office of Economics

The Office of Economics provides expert economic analysis for ITC investigations and reports. In addition, ITC economists render substantial technical assistance to the USTR, other executive branch agencies, the Congress, and the public. ITC economists also actively participate in many conferences, seminars, workshops, and professional society meetings; contribute to educational programs, both in the United States and abroad, on trade and economic matters; and publish regularly in scholarly journals. The office consists of three divisions.

Research Division economists provide theoretical and technical expertise for the quantitative analysis

of trade and economic issues. Division economists develop and use state-of-the-art analytical tools to provide modeling and other support for ITC investigations, requests for technical assistance and analysis from the USTR and other entities within the Executive Office of the President, and congressional inquiries. The tools enable agency staff to provide a rigorous analysis of the economic effects of changes in global trading rules or changes in other international economic factors that affect U.S. market structure, productivity, and competitiveness. The Research Division develops and maintains the computable general equilibrium (CGE) models that enable agency staff to estimate the effects of changing any specific trade restraint, any set of multiple restraints, or any other quantifiable barriers to U.S. trade.

The Research Division rendered technical assistance to the USTR, as well as the Council of Economic Advisors, the Office of Management and Budget, and the National Economic Council, during FY 1997, providing briefings, critical reviews of trade-related papers, global trade models, trade flow data, econometric and simulation model results, and general economic expertise. The division conducted an economic symposium in September in connection with the ITC's ongoing section 332 investigation *Economic Implications of Liberalizing APEC Tariff and Non-tariff*

*As part of its investigative responsibilities, the ITC produces a number of recurring studies and monitoring reports requested by the President, the Congress, and the Commission. Among its statutorily required investigations is an annual report to the Congress and the President on the impact on U.S. industries and consumers of the Andean Trade Preference Act and Andean drug crop eradication and crop substitution. International Economist Tom Jennings traveled to the Andean region to gather information for this report during FY 1997. Here, he is pictured with workers at a banana processing plant in Bolivia.*



*Barriers.* The two-day symposium brought together economic researchers who presented papers on the identification and assessment of the impact of nontariff barriers to trade and investment in the APEC region and on

the general equilibrium modeling of APEC trade liberalization. In addition, the division coordinated the ITC's section 332 investigation on the impact of the NAFTA (see Highlights section of this report) during the year and



provided technical expertise on APEC-related quantitative analysis issues.

Economists in the Country and Regional Analysis Division analyze foreign economic regimes and regional and multilateral trade agreements. Economists in this division contribute economic expertise to ITC investigations and maintain up-to-date information concerning global economic, investment, and trade developments by major country and region. The division complements and works closely with the ITC Office of Industries to provide U.S. trade policymakers with information about specific industries and countries. The division also produces the *International Economic Review (IER)*, a monthly journal analyzing economic and trade policy developments.

During FY 1997, the Country and Regional Analysis Division actively participated in interagency work and, at the USTR's request, analyzed APEC member plans to liberalize and facilitate trade in line with the organization's goal of attaining free and open trade and investment by the year 2020. Division economists also completed section 332 factfinding investigations as well as a number of regular trade-monitoring reports, including an annual review of multilateral, regional, and bilateral trade developments entitled *The Year in Trade*.

The Applied Economics Division primarily is responsible for providing technical economic expertise in the

ITC's antidumping and countervailing duty investigations as well as in escape clause and market disruption investigations. Division economists serve on investigative teams, where they analyze conditions of competition (using demand, supply, and other market-related information) and pricing practices within the industry subject to investigation. They also model the economic impact of unfairly priced imports on the U.S. industry producing competing articles. In addition, they work on section 332 investigations, assisting in economic modeling and providing general economic analysis.

## Office of Tariff Affairs and Trade Agreements

The Office of Tariff Affairs and Trade Agreements (TATA) carries out the ITC's responsibilities with respect to the Harmonized Tariff Schedule of the United States (HTS) and the international Harmonized System (HS). The HTS provides the applicable tariff rates and statistical categories for all merchandise imported into the United States; it is based on the HS, the global classification system that governs most world trade in goods.

TATA updates and publishes the HTS annually. In November 1996, the office published the 1997 edition of the HTS. TATA also published a 1,000-page supplement to the 1997 edition in July 1997. An electronic

version of the HTS is available on the ITC's Internet homepage in the "Tariff Affairs" section.

TATA staff also provide expert HTS-related information upon request to the business community, governments, and the public. The office maintains an electronic data base that tracks the history of all changes (legal and statistical) to the HTS since its implementation.

TATA staff members also work with the Office of Industries to prepare bill reports requested by Congress. These reports investigate the legal and economic effects of proposed tariff reductions and duty suspensions for specific products for use by the House Committee on Ways and Means and the Senate Committee on Finance during consideration of tariff-related legislation; see appendix D. The office also provides technical advice and assistance to the USTR on bilateral and multilateral trade programs, participating in Trade Policy Staff Committee activities, preparing Presidential proclamations, developing trade data tailored for use by negotiators, and, when requested, directly assisting negotiating teams. During FY 1997, TATA provided technical assistance in preparing documents for presentation of the U.S. offer in the Information Technology Agreement (ITA) to the WTO in Geneva and in drafting the proclamation implementing the ITA on July 1, 1997. TATA also assisted in preparation of several other proclamations, such as the

expansion of product coverage in the Pharmaceutical Agreement and the implementation of the first round of accelerated tariff reductions under the NAFTA.

The office participates in the World Customs Organization (WCO), an international organization headquartered in Brussels, Belgium. The WCO oversees the continuous development and maintenance of the global HS. TATA represents the U.S. government on the central committee for nomenclature and classification matters (the Harmonized System Committee), the Technical Committee on Rules of Origin, and the HS Review Subcommittee. TATA participated in meetings of these three committees during FY 1997 and provided technical assistance to the Customs Service officials serving as U.S. delegates and to the USTR. TATA also hosted a meeting of delegations from seven countries in connection with the ITC investigation of rules of origin. These technical discussions focused on various complex chemical questions concerning the origin of goods in connection with the work of the WCO's Technical Committee on Rules of Origin.

TATA's Director chairs the Committee for Statistical Annotation of the Tariff Schedule, which also includes representatives of the U.S. Customs Service and the Census Bureau. The committee analyzes and evaluates petitions requesting changes in HTS statistical subheadings; it received

40 such petitions during FY 1997. Through the committee, TATA participated during FY 1997 in several joint undertakings with the Canadian government in connection with a U.S.-Canada Memorandum of Understanding, under which the two countries exchange monthly import statistics that reflect each country's exports to the other. The arrangement eliminates the need to prepare and compile over one million export documents annually.

TATA's Director serves on the Board of Directors of the International Trade Data System (ITDS). The ITDS is an integrated trade data system to be shared by all federal trade agencies. It results from a National Performance Review initiative recommending the establishment of such a system.

## Office of Unfair Import Investigations

The Office of Unfair Import Investigations (OUII) participates as a full party representing the public interest in adjudicatory investigations conducted under section 337 of the Tariff Act of 1930. These investigations most frequently involve allegations of patent or trademark infringement. Allegations of copyright infringement, misappropriation of trade secrets, passing off, false advertising, and antitrust violations also can be litigated in these investigations. If the

Commission finds a violation of section 337, it may issue exclusion orders and cease and desist orders as a remedy.

Investigative attorneys from OUII actively participate throughout the investigation along with counsel for the private parties. However, the investigative staff represents the public interest rather than the private interests of a complainant or respondent. Representation of the public interest is important because the remedies available in section 337 investigations may affect nonparties and U.S. consumers. OUII investigates and offers an independent perspective on the many issues presented in section 337 investigations.

OUII attorneys review section 337 complaints prior to institution of an investigation and advise the Commission whether complaints are legally sufficient for purposes of institution. Upon request, OUII also provides information to prospective complainants regarding procedures for filing complaints under section 337 and reviews draft complaints on a confidential basis. Once an investigation is instituted, OUII attorneys seek to ensure that a sufficient evidentiary record is developed. OUII attorneys conduct discovery, participate at hearings before the Administrative Law Judges (ALJs), and submit legal briefs to the ALJs and the Commission.

After a hearing, the ALJ issues an initial determination on all issues

related to the alleged violation of section 337. The ALJ's initial determination is subject to review and modification by the Commission. If the Commission does not modify the initial determination, it becomes the Commission's final determination. If the Commission determines that there is a violation of section 337, it may issue remedial orders. Those orders are effective when issued and become final 60 days after issuance unless disapproved for policy reasons by the President within that 60-day period. (A more complete description of section 337 is included in appendix C).

OUII also assists the parties with settlements. OUII attorneys review proposed consent orders (orders of the Commission agreed to by the parties that prohibit specific activities related to the importation and/or sale of the products at issue) and settlement agreements (private agreements between the parties). OUII then submits responses to the ALJ regarding public interest concerns and compliance with ITC rules.

During FY 1997, there were 23 active section 337 investigations, 11 of which were instituted in FY 1997. (Key investigations are detailed in the Highlights section of this report, and a full list of investigations completed appears in appendix A). The Commission found a violation of section 337 in three investigations. Limited exclusion orders were issued in two of these investigations, and a general exclusion order was issued in the other. Cease

and desist orders were also issued in two of the investigations where a violation was found. The Commission terminated six investigations prior to an evidentiary hearing as a result of settlement agreements reached by the parties. Another investigation was terminated prior to an evidentiary hearing based on the withdrawal of the complaint. Consent orders were issued in two section 337 investigations.

The ITC may conduct enforcement proceedings to determine whether the importation or sale of a specific product violates an existing Commission order. Also, the Commission may issue advisory opinions regarding whether certain anticipated conduct would violate an outstanding Commission order. During FY 1997, the Commission concluded one formal enforcement proceeding. In that proceeding, the Commission found that a consent order had been violated and assessed a \$1.55 million civil penalty. The Commission also replaced the consent order at issue with a limited exclusion order and a cease and desist order.

## Office of Information Services

The Office of Information Services (OIS) administers all ITC computer, telecommunications, and statistical and editorial services, as well as the National Library of International Trade. During FY 1997, OIS focused

***The Internet continued to grow as a key communication vehicle for the ITC during FY 1997, with new sections added to meet increasing customer requests. For example, Eric Pargament (right), one of the ITC's webmasters, and Beth Seltzer, the agency's Trade Remedy Assistance Officer, laid most of the groundwork during the year for a soon-to-be-launched section of the ITC's web site that will offer information and documents for the ITC Trade Remedy Assistance Office. The Trade Remedy Assistance Office assists eligible small businesses seeking benefits or relief under U.S. trade laws. Visit the ITC's Internet homepage at [www.usitc.gov](http://www.usitc.gov).***



on building systems to help the agency perform core functions more efficiently, such as converting existing information resources to electronic "self-service" formats. OIS provided extensive support to the agency's development of a "warehouse" of international trade and tariff information for use by ITC staff and certain other government analysts and policymakers. OIS administered the agency's Intranet server and promoted its use for efficient internal distribution of research and administrative data; it also continued to provide extensive support for the agency's public Internet server. OIS also continued to participate in interagency information technology initiatives on behalf of the ITC.

## Library Services

The Library Services staff manages the ITC's National Library of International Trade, a specialized technical library that serves as the agency's information and research center. The library houses over 100,000 volumes and approximately 2,500 periodical titles related to U.S. industry and international trade laws and practices as well as several CD-ROM and on-line information data bases. Library Services supports the Commissioners and ITC staff by acquiring, organizing, and disseminating information in all media. During FY 1997, the library's staff focused on making research materials available to

ITC staff at their desks whenever possible, updating and expanding the agency's CD-ROM network and subscribing to several new Internet services during the year. The National Library of International Trade is open throughout the workday to public researchers, scholars, and university students.

## OFFICE OF ADMINISTRATION

The Office of Administration oversees the administration of the ITC's budget, manages all personnel matters and agencywide programs and activities, directs procurement and publishing activities, conducts the agency information security program, and coordinates the day-to-day operation of the building that houses the agency.

## Office of Finance and Budget

The Office of Finance and Budget develops, monitors, and administers the ITC budget and expenditures, ensuring proper financial management of agency activities. The Budget Division formulates, justifies, and executes the ITC budget; the Finance Division maintains the ITC financial information system and the agency payroll and travel functions. The office also performs liaison on budget and finance



matters with other federal agencies, the Office of Management and Budget, and congressional committees. Finance and Budget staff manage travel, payroll, and other financial services; help ITC offices develop their annual budget requests; develop the overall annual agency appropriation and authorization requests; and prepare monthly accounting, activity, and financial projection reports.

During FY 1997, the office consolidated its two imprest funds and instituted the use of metro fare cards and taxi vouchers for official transportation in order to improve financial management. These improvements were consistent with the National Performance Review and Government Performance Results Act streamlining initiatives. The office also assisted in the development and testing of a financial data warehousing system with the Department of the Interior (DOI) during the year; this system, which will be implemented during FY 1998, will enable senior managers to better manage their resources. The office also completed the final testing of the DOI labor cost system, which was integrated with the ITC personnel and time and attendance systems last year. The labor cost system, also scheduled to be implemented during FY 1998, will provide a more accurate record of costs associated with a given agency activity, allowing a linkage between the Commission's budget and its strategic plan. The ITC received its

fourth consecutive clean opinion audit on its FY 1995 and FY 1996 financial statements during FY 1997; the Office of Finance and Budget was instrumental in this achievement.

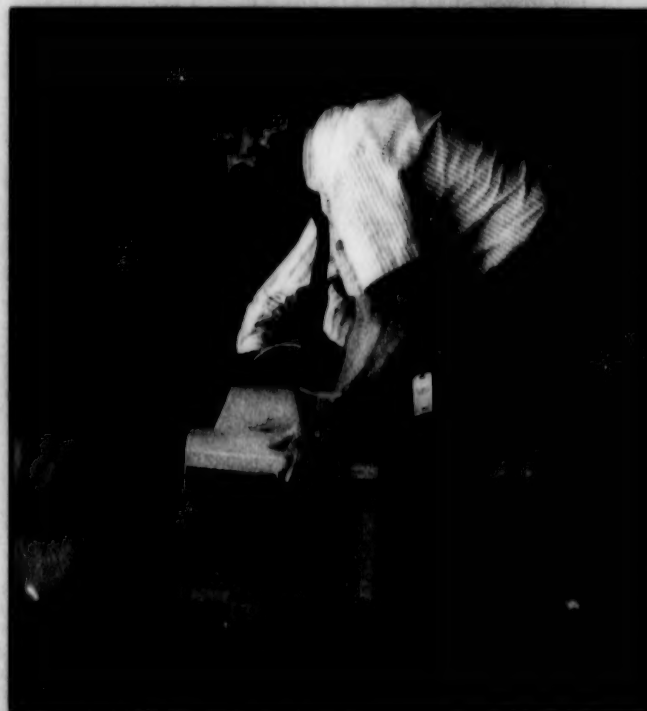
## Office of Management Services

The Office of Management Services (OMS) manages the ITC's publishing, procurement, facilities management, and management analysis activities. During FY 1997, the office managed preparations for refurbishing its leased space and continued its mission consolidation through reorganizations. In addition, the Planning and Procurement Division made significant gains in its implementation of the General Services Administration's Simplified Acquisition Procedures and Purchase Card Program, both of which will simplify procurement processing.

## Office of Personnel

The Office of Personnel manages the ITC's recruitment, training, and personnel management operations and serves as a resource for managers and staff on employee relations, employee development, and benefits matters. During FY 1997, recruitment activity rebounded as the agency sought to fill vacancies created by attrition following its FY 1996 downsizing. The office devoted considerable time to

*The ITC donated more than 250 surplus computers to schools and community-based educational organizations in the D.C.-metropolitan area during FY 1997. The computers and related peripheral tools, including a keyboard, mouse, and certain software required to operate the equipment, were donated under an April 1996 Presidential directive that enables government agencies to more efficiently transfer excess and surplus federal computer equipment to education entities. Here, ITC Senior Management Analyst Charles Sole and Support Services Specialist Brennan Swann help load computers for a recipient school.*



*Judge Paul Luckern is one of the ITC's two Administrative Law Judges, who direct the litigation and preside over the evidentiary hearing in section 337 investigations. The ALJs issue initial determinations in section 337 investigations based on the evidence collected in the course of the investigation. Their initial determinations are subject to review and modification by the Commission; if the Commission elects not to review the initial determination, it becomes the determination of the Commission.*



labor-management issues during the year due to union-requested mid-term contract negotiations. In addition, post-downsizing reorganization efforts caused higher than usual position classification management activity.

## OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY

The Office of Equal Employment Opportunity (EEO) administers the ITC affirmative action program. The

Director advises the Chairman and ITC managers on all equal employment issues; evaluates the sufficiency of the agency's EEO program and recommends improvements or corrections, including remedial and disciplinary action; establishes and maintains a diversity outreach program; and monitors recruitment plans and activities to assure equity in hiring activities.

The Director manages the complaints and investigation process; coordinates the pre-complaint counseling and alternative dispute resolution processes; and manages and supervises

the work of the collateral-duty Special Emphasis Program Managers and EEO Counselors. The ITC/EEO program is structured to promote understanding and appreciation of multiple ethnicity in the workplace and to prevent inappropriate, discriminatory conduct on the part of all employees. The ITC Employee Development Program is a corollary function within the Office of EEO.

## OFFICE OF THE ADMINISTRATIVE LAW JUDGES

The ITC's Administrative Law Judges (ALJs) direct litigation, hold hearings, and make initial determinations in investigations under section 337 of the Tariff Act of 1930.

Section 337 investigations require formal evidentiary hearings in accordance with the Administrative Procedure Act (5 U.S.C. 551 et seq.). After the Commission has instituted an investigation, the matter is referred to the Office of the Administrative Law Judges. Cases are assigned on a rotating basis to one of the ITC's two ALJs, who, after an extensive discovery process, holds a hearing. The judge considers the evidentiary record and the arguments of the parties and makes an initial determination, including findings of fact and conclusions of law. Temporary relief may be granted in certain cases. (A more detailed

description of section 337 is included in appendix C.)

The judge's initial determination is subject to review and modification by the Commission. If the Commission does not modify the initial determination, it becomes the Commission's final determination. If the Commission determines that there is a violation of section 337, it may issue remedial orders. Those orders are effective when issued and become final 60 days after issuance unless disapproved for policy reasons by the President within that 60-day period.

During FY 1997, the Office of the Administrative Law Judges held five evidentiary hearings in section 337 cases under the Administrative Procedure Act. (See Highlights section of this report for details on key section 337 investigations during FY 1996 and appendix A for a complete list of investigations.)

## OFFICE OF INSPECTOR GENERAL

The Inspector General conducts all audits and investigations related to ITC programs and operations and recommends and comments on proposed legislation, regulations, and procedures that affect the agency's efficiency and effectiveness. The accomplishments of the Inspector General are detailed in semiannual reports submitted to Congress in May and November. The Office of Inspector General reviews all proposed ITC directives

and regulations as a means of preventing or detecting fraud, waste, or abuse. As required by the Inspector General Act, the office also has a process for commenting on existing and proposed legislation and regulations relating to programs and operations of the ITC.

During FY 1997, the Inspector General conducted audits of the Commission's Privacy Act systems of records and the financial statements for fiscal years 1996 and 1995. Inspections addressed topics such as compliance with the Federal Managers' Financial Integrity Act of 1982, a comparison of paid overtime to base salary, an evaluation of the Internet as a means of public notice, a vulnerability assessment of the Commission's automated information systems, and an examination of reported changes in Commission ratios of supervisors to employees.

The Inspector General is an active member of the Executive Council on Integrity and Efficiency.

## OFFICE OF THE SECRETARY

The Office of the Secretary compiles and maintains the ITC's official records, including petitions, briefs, and other legal documents. In FY 1997, a total of 11,017 documents were filed with the office.

Under the direction of the Secretary, the office issues ITC notices,

reports, and orders, and it schedules and participates in all Commission meetings (16 in FY 1997) and hearings (19 days of hearings in FY 1997). The office makes determinations on requests for confidential treatment of information, requests for information to be released under protective order, and requests under the Freedom of Information Act (FOIA). The following table shows the number of these requests in FY 1996 and FY 1997:

Type of request	FY 1996	FY 1997
Requests for confidential treatment . . . . .	236	220
Requests for release of confidential business information under protective order . . . . .	88	89
FOIA requests:		
Received . . . . .	81	69
Granted in whole or in part . . . .	49	52

The Office of the Secretary receives surety bonds or other collateral posted by parties in connection with the temporary exclusion orders issued in section 337 investigations. The Secretary is also authorized to issue

*The ITC's new Electronic Document Imaging System (EDIS), which provides users with electronic access to the official records of ITC investigations, "went public" more fully during FY 1997. The system improves efficiency within the agency, enabling ITC Commissioners and staff to access both confidential and public documents from locations throughout the building. Public users can use the system in the ITC's reading room to review the contents of public inspection files maintained in ITC investigations. Here, ITC Secretary Donna Koehnke leads an instructional seminar on the EDIS system for outside users. Also pictured are Chairman Marcia Miller and Investigative Attorney Tom Jarvis, a member of the EDIS team.*





*ITC staff are sometimes called upon to educate foreign counterparts on U.S. trade laws and practices. During FY 1997, ITC International Trade Analyst Felix Bello (left), Economist Peter Dohman, and Attorney-Advisor Anjali Hansen presented an antidumping seminar at the Comisión Nacional de Comercio Exterior in Buenos Aires, Argentina.*



seizure letters authorizing the U.S. Customs Service to hold certain merchandise when a prohibited importation is attempted. In addition, the Secretary issues administrative protective orders in cases filed before binational panels under the auspices of the NAFTA. The Secretary monitors alleged breaches of ITC administrative protection orders.

The Office of the Secretary manages distribution of ITC reports

and studies through its Publications Branch, responding to an average of 502 requests monthly. Research facilities are available in the Office of the Secretary (room 112) and in the ITC National Library of International Trade and the ITC Law Library. Inquiries should be directed to the specific organizational unit or to the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436. Publications may be ordered 24 hours

a day, seven days a week, by calling 202-205-1809. Recorded information on the latest petitions and complaints filed with the ITC can be obtained by calling 202-205-2196.

## OFFICE OF THE GENERAL COUNSEL

The General Counsel serves as the ITC's chief legal advisor. The General Counsel and the 22 attorneys in the office provide legal advice and support to the Commissioners and ITC staff on statutory investigations, prepare briefs and represent the ITC in court and before binational panels and administrative tribunals, and provide assistance and advice on general administrative matters, including ethics, personnel and labor relations, and contracts. General Counsel attorneys serve as members of investigative teams assigned to antidumping and countervailing duty investigations and investigations under other statutory authorities; they prepare legal issues memoranda and assist the Commission in the drafting of opinions in the course of these investigations. The office also provides assistance and support in the drafting of new ITC rules of practice and procedure.

During FY 1997, General Counsel attorneys, largely as a result of the ITC's 1996 reductions in force, represented the Commission in challenges to employment actions before

courts, arbitrators, and administrative tribunals. Also during the year, General Counsel attorneys prepared amendments to the ITC's rules governing antidumping and countervailing duty investigations to reflect changes required by the Uruguay Round Agreements Act. Appendix E of this report details the trade litigation matters completed or terminated during FY 1997 or pending at year-end.

When requested, the office provides technical assistance to the Congress and the executive branch on tariff and trade matters. During FY 1997, the office was called upon to provide technical assistance and support to the USTR in connection with notification of WTO committees of U.S. legislation that implements U.S. obligations under the new WTO agreements and to review the antidumping, countervailing duty, and safeguard laws of other countries for consistency with WTO requirements. Office attorneys also provided technical assistance to USTR staff in connection with consultations and panel proceedings in the WTO and under the NAFTA relating to ITC antidumping, countervailing duty, and safeguard determinations. The office also assisted the USTR in its challenges in the WTO to actions of other countries and provided technical advice concerning consultations on U.S. laws related to the antidumping and countervailing duty laws.



## OFFICE OF EXTERNAL RELATIONS

The Office of External Relations develops and maintains liaison between the ITC and its varied external customers. The ITC's Trade Remedy Assistance Office (TRAO) is a component of External Relations. The office is the focal point for contacts with the U.S. Trade Representative and other executive branch agencies, Congress, foreign governments, international organizations, the public, and the international, national, and local news media. It also coordinates meetings with international visitors.

The Director is the ITC's representative on the interagency Trade Policy Staff Committee and an advisor to the Trade Policy Review Group, both of which are chaired by the USTR. External Relations provides assistance to the agencies responsible for trade policy formulation and keeps Commissioners and senior ITC staff informed of developing trade issues that might affect the agency's mission. The office coordinates Presidential requests for advice and information on trade issues. It also manages interactions between the Commission and the international trade community, coordinating requests for assistance from U.S. embassies abroad in connection with the Commission's investigations and studies as well as arranging and participating in meetings with representatives of foreign

governments and international organizations.

The Congressional Relations Officer works with congressional staff to clarify congressional intent in section 332 investigation requests, responds to inquiries from Members of Congress, and keeps the Commission apprised of legislative initiatives that would affect ITC operations. She also provides technical assistance to Members of Congress and their staff on various trade-related matters.

The Public Affairs Officer serves as spokesperson for the ITC and maintains an active relationship with the news media, responding to inquiries, issuing news releases concerning Commission determinations, publicizing ITC studies and publications, and arranging interviews with Commissioners and staff experts. She also develops informational brochures and pamphlets to enhance public understanding of the ITC, edits the ITC Annual Report to Congress, and advises the Commission and agency staff on public affairs issues and practices.

The Trade Remedy Assistance Officer assists small businesses seeking benefits or relief under U.S. trade laws through the Trade Remedy Assistance Office. She provides general information concerning the remedies and benefits available under the trade laws of the United States, and she provides technical and legal assistance and advice to eligible small businesses seeking remedies.

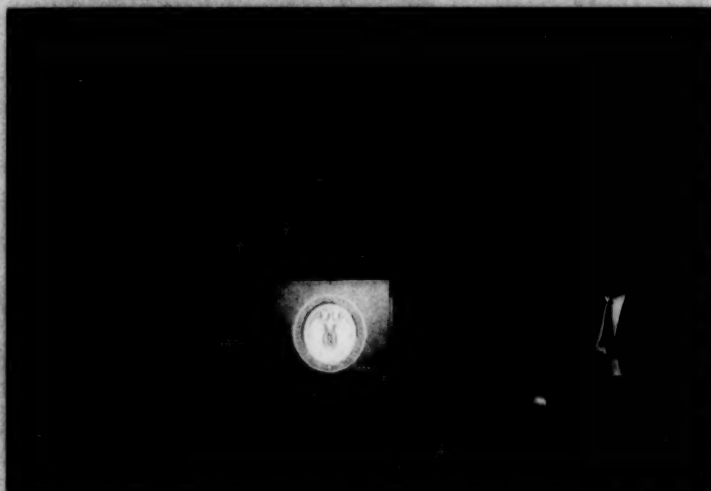
*Senator Olympia J. Snowe (R-Maine), shown here (left) with a staff member and Vice Chairman Lynn Bragg, was among the congressional representatives testifying at the ITC's hearing in connection with its section 332 factfinding investigation **Fresh and Processed Potatoes: Competitive Conditions Affecting the U.S. and Canadian Industries.***



During FY 1997, External Relations coordinated ITC support for the USTR in APEC forum activities and the U.S.-EU Trans-Atlantic trade initiative. The office also directed Commission staff participation in interagency working groups on WTO and Organization for Economic Coordination and Development issues as well as a broad range of bilateral and multilateral issues. The ITC responded to 74 letters from Members of Congress during the year and

submitted 59 miscellaneous tariff bill reports to the House Committee on Ways and Means. (The Commission's bill reports investigate the legal and economic effects of proposed tariff reductions and duty suspensions for specific products for use by the House Committee on Ways and Means and the Senate Committee on Finance during consideration of tariff-related legislation; see appendix D.) In addition, the ITC completed three analytical reviews/revenue estimates

**The Honorable Cresencio S. Arcos (left), Regional Vice President for AT&T International Public Affairs and former U.S. Ambassador to Honduras, was the guest speaker at the ITC's Hispanic Heritage Month celebration during FY 1997. Ambassador Arcos spoke to ITC staff on "The Evolving Telecommunications Market in Latin America." International Trade Analyst Felix Bello (right) served as Master of Ceremonies for the event. Ruben Mata (center), Hispanic Employment Program Manager for the ITC's EEO program, also offered comments and acknowledgements during the program.**



of tariff measures and provided informal technical drafting comments on three other bills.

Numerous members of Congress testified at the ITC in connection with

a number of investigations during FY 1997.

Congressman Donald A. Manzullo (R-Illinois) and Congressman Phil English (R-Pennsylvania) testified on

February 28, 1997, in connection with the ITC's final antidumping investigation involving *Certain Brake Drums and Rotors from China*.

Senator Olympia J. Snowe (R-Maine), Senator Susan M. Collins (R-Maine), Senator Larry E. Craig (R-Idaho), Congressman Michael D. Crapo (R-Idaho), Congressman Richard "Doc" Hastings (R-Washington), and Congressman John E. Baldacci (D-Maine) testified on April 30, 1997, in connection with the ITC's section 332 factfinding investigation *Fresh and Processed Potatoes: Competitive Conditions Affecting the U.S. and Canadian Industries*.

Congressman Jim Kolbe (R-Arizona) and Congressman Steven E. Buyer (R-Indiana) testified on May 15, 1997, and Congressman Robert F. Smith (R-Oregon) testified on May 16, 1997, in connection with the ITC's section 332 factfinding investigation *The Impact of the North American Free Trade Agreement on the U.S. Economy and Industries: A Three-Year Review*.

Senator John B. Breaux (D-Louisiana) and Congressman Christopher John (D-Louisiana) testified on July 28, 1997, in connection with the ITC's final phase antidumping investigation involving *Crawfish Tail Meat from China*.

In addition, Chairman Marcia E. Miller testified at two congressional hearings on behalf of the ITC's budget.

She testified on March 11, 1997, before the House Committee on Ways and Means' Subcommittee on Trade concerning the agency's FY 1998 and FY 1999 authorization and on March 18, 1997, before the House Appropriations Committee's Subcommittee on Commerce, Justice, State, and the Judiciary concerning the agency's FY 1998 appropriation.

TRAO provided information and assistance to 213 business, public, academic, and congressional customers during FY 1997. TRAO also rendered technical assistance, including informal legal assistance and advice, to eight eligible small businesses during the year. In addition, External Relations arranged ITC visits for 216 individuals from 39 countries, including government officials, journalists, businessmen, economists, bankers, attorneys, professors, and students.

## PART III. MANAGEMENT AND FINANCE

The ITC maintains an expert staff of professional international trade and nomenclature analysts, investigators, attorneys, economists, computer specialists, and administrative support personnel. All ITC personnel are located at 500 E Street, SW, Washington, DC 20436. At the end of FY 1997, a total of 349 permanent employees were employed by the ITC.

A breakdown of staff, by organization, is shown at the right:

Organizational unit	Number as of September 30, 1997
Commissioners .....	4
Offices of the Commissioners .....	13
Office of the Administrative Law Judges .....	6
Office of the Secretary .....	14
Office of External Relations .....	5
Trade Remedy Assistance Office .....	0.5
Office of the General Counsel .....	35
Office of Inspector General .....	2.5
Office of the Director of Operations .....	3
Office of Economics .....	37
Office of Industries .....	102
Office of Investigations .....	27
Office of Tariff Affairs and Trade Agreements .....	14
Office of Unfair Import Investigations .....	11
Office of Information Services .....	27
Library Services .....	8
Office of the Director of Administration .....	2
Office of Finance and Budget .....	8
Office of Management Services .....	22
Office of Personnel .....	7
Office of Equal Employment Opportunity .....	1
Total .....	349

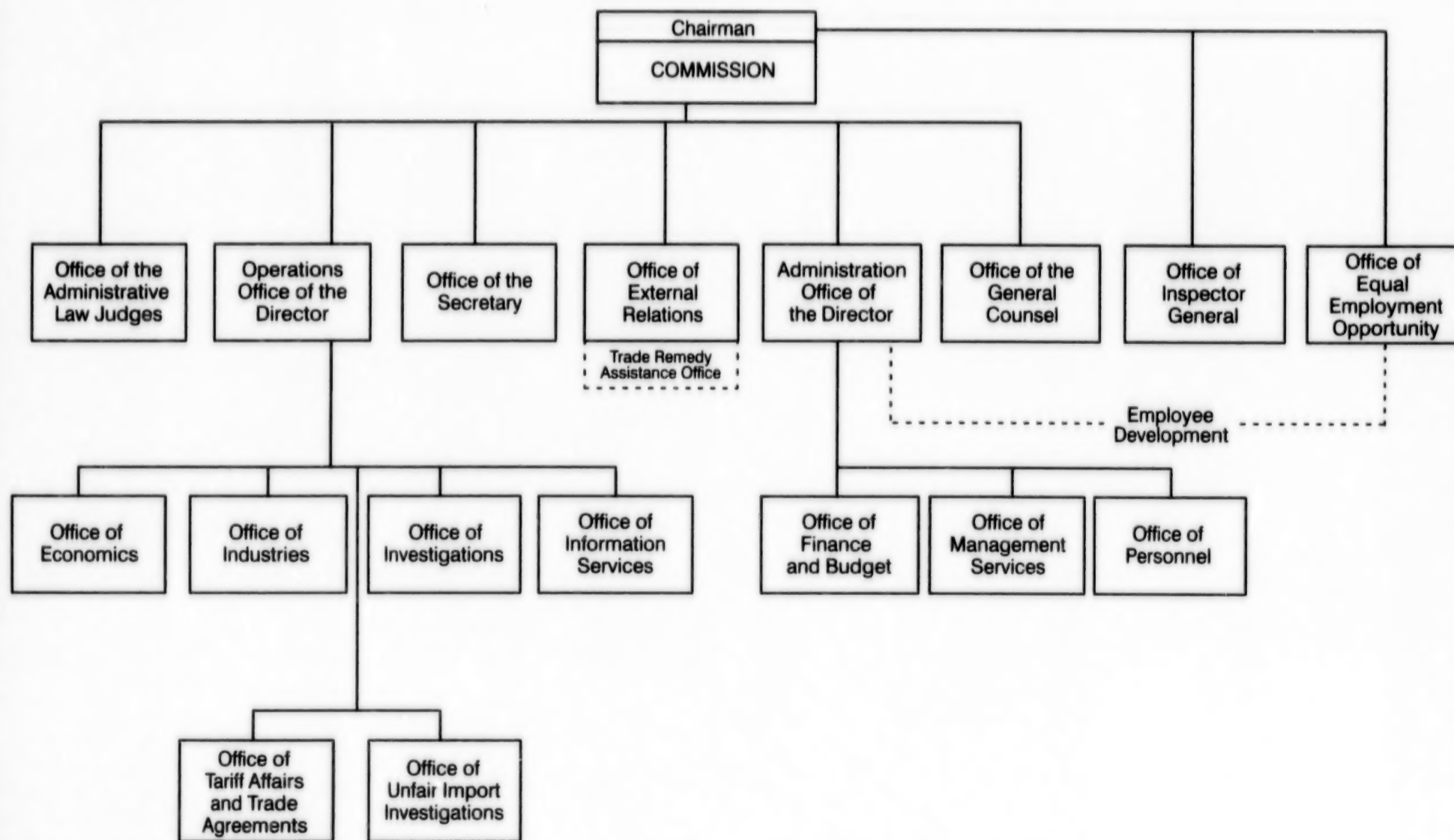
The ITC submits its budget to the President for transmittal to Congress. Because of the unique role of the ITC as a quasi-judicial, nonpartisan, independent agency designed to provide trade expertise to the legislative and executive branches of government, Congress provided in section 175 of the Trade Act of 1974 (19 U.S.C. 2232) that the ITC budget would not be subject to control by the Office of Management and Budget, but would instead be submitted directly to Congress.

During FY 1997, appropriated funds made available to the ITC amounted to \$41,623,000. Obligations for FY 1996 and FY 1997 (in thousands of dollars) are shown at the right:

Item	FY 1996	FY 1997
Salaries and personnel benefits .....	28,638	28,183
Travel and transportation .....	327	416
Rental and communication services .....	7,402	6,864
Other services .....	2,054	2,395
Printing and reproduction .....	116	133
Equipment, supplies, and material .....	1,876	2,880
Land and structures .....	136	75
Total .....	40,549	40,946



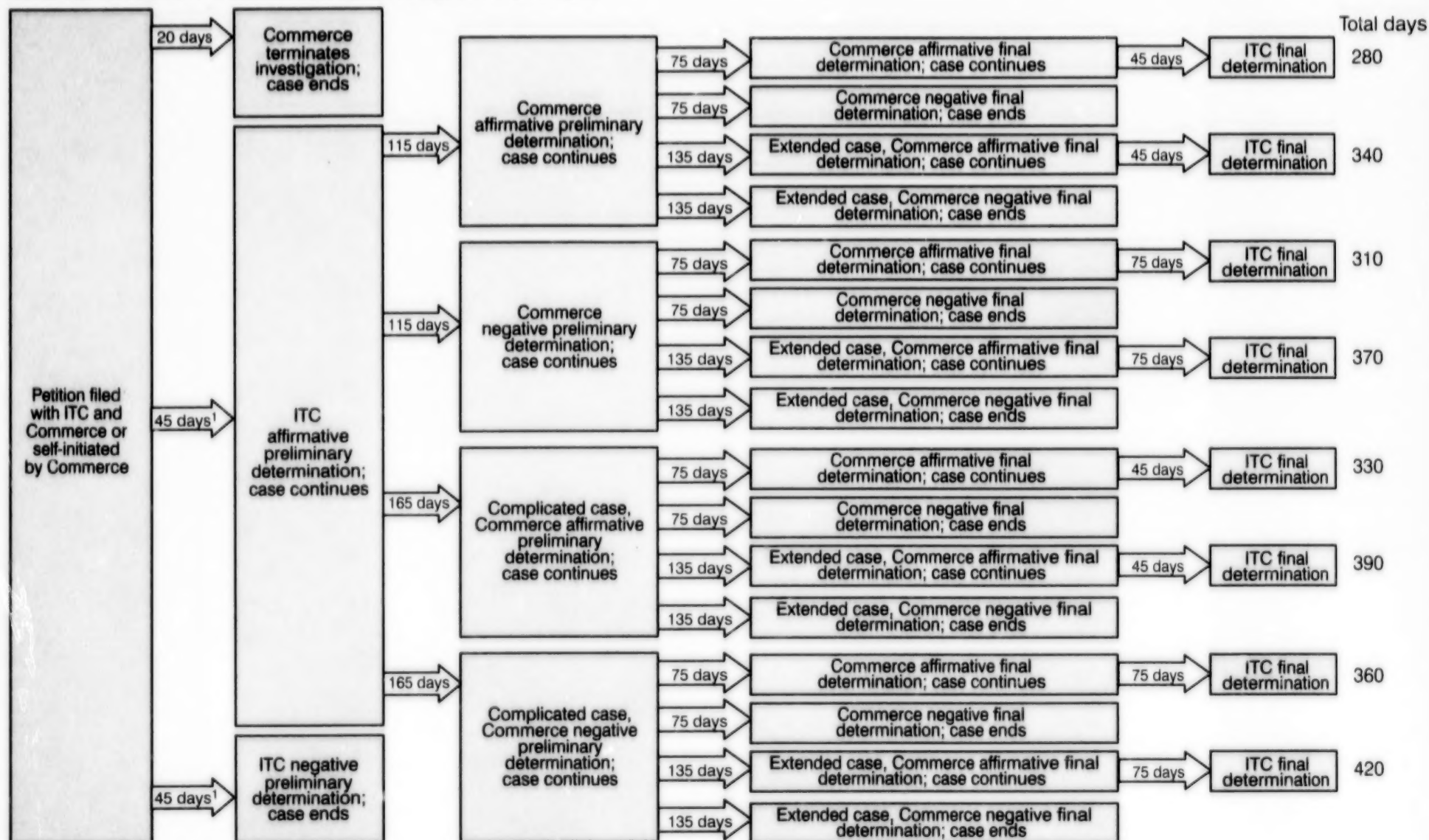
**FIGURE 1**  
**ITC ORGANIZATION**





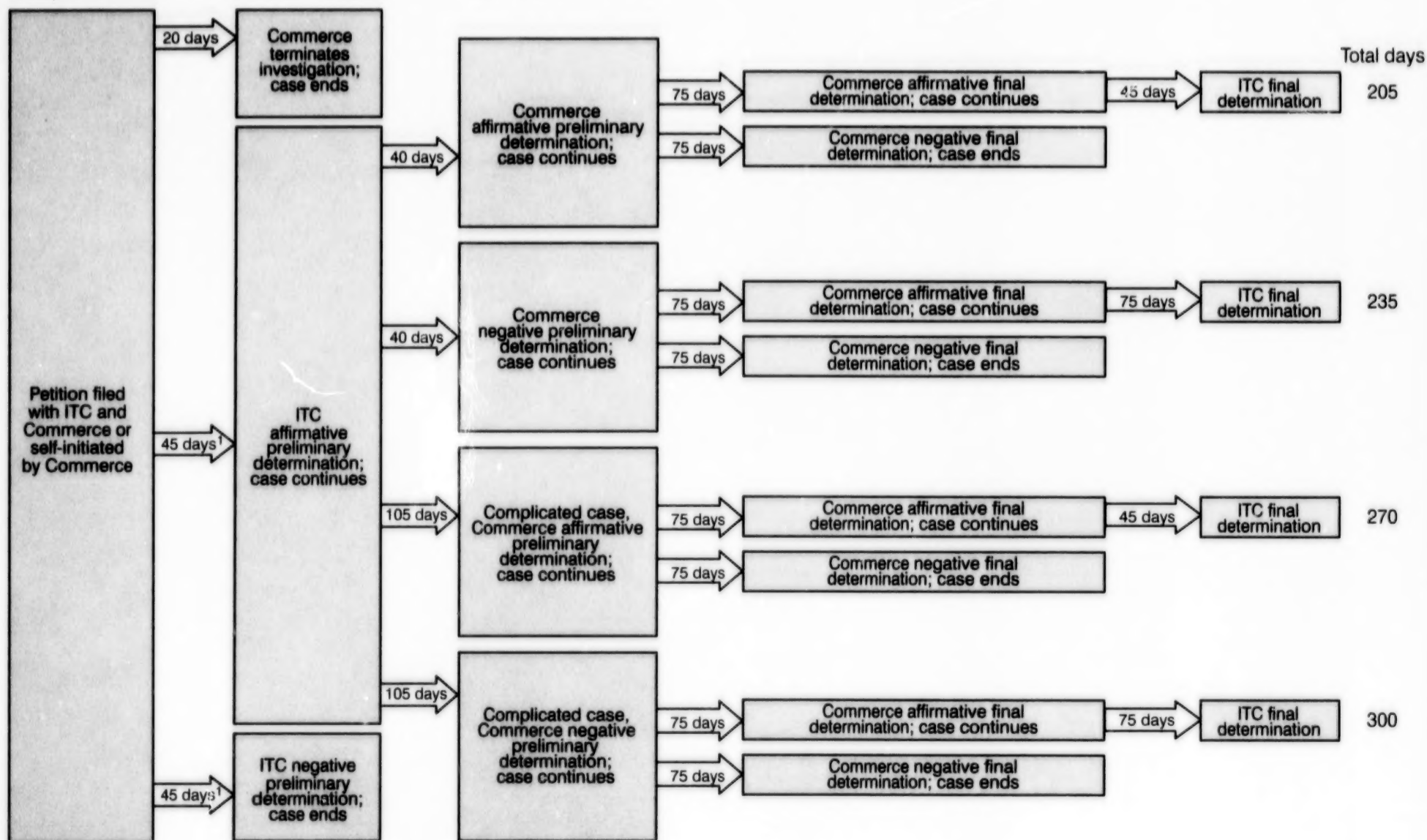
## FIGURE 2 STATUTORY TIMETABLES FOR ANTIDUMPING AND COUNTERVAILING DUTY INVESTIGATIONS

Statutory timetable for antidumping investigations (in days)



<sup>1</sup> Normal case. ITA may extend the time allowed for it to initiate an investigation from 20 days to up to 40 days after a petition is filed if the extra time is needed to determine industry support for the petition. In the event of such an extension, the deadline for the ITC's preliminary determination and all following dates would be increased by the amount of the extension.

# Statutory timetable for countervailing duty investigations (in days)





## **APPENDIXES**

### **APPENDIX A**

#### **SUMMARY OF INVESTIGATIONS COMPLETED DURING FISCAL YEAR 1997 AND PENDING ON SEPTEMBER 30, 1997**

**Table 1**

**General investigations of trade and tariff matters completed under sec. 332 of the Tariff Act of 1930 and sec. 1205 of the Omnibus Trade and Competitiveness Act of 1988, fiscal year 1997**

Investigation No. and title	Origin	USITC publication—	
		No.	Date
<b>332-135</b> <i>Synthetic Organic Chemicals: United States Production and Sales, 1994</i>	Request from the Committee on Ways and Means, U.S. House of Representatives	( <sup>1</sup> )	( <sup>1</sup> )
<b>332-367</b> <i>General Agreement on Trade in Services: Examination of South American Trading Partners' Schedules of Commitments</i>	Request from the United States Trade Representative	3007	December 1996
<b>332-368</b> <i>Crawfish: Competitive Conditions in the U.S. Market</i>	Request from the Committee on Ways and Means, U.S. House of Representatives	( <sup>2</sup> )	( <sup>2</sup> )
<b>332-369</b> <i>Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences</i>	Request from the United States Trade Representative	3008	December 1996
<b>332-370</b> <i>Advice on Providing Additional GSP Benefits for Least-Developed Countries</i>	Request from the United States Trade Representative	3023	February 1997
<b>332-371</b> <i>Cattle and Beef: Impact of the NAFTA and Uruguay Round Agreements on U.S. Trade</i>	Required by sec. 58 of the Miscellaneous Trade and Technical Corrections Act of 1996	3048	July 1997
<b>332-373</b> <i>Advice on Providing Temporary Duty-Free Entry for Certain Suits and Suit-Type Jackets from Mexico</i>	Request from the United States Trade Representative	3012	January 1997
<b>332-374</b> <i>General Agreement on Trade in Services: Examination of the Schedules of Commitments Submitted by Asia/Pacific Trading Partners</i>	Request from the United States Trade Representative	3053	August 1997
<b>332-376</b> <i>Advice Concerning the Addition of Certain Pharmaceutical Products and Chemical Intermediates to the Pharmaceutical Appendix to the Harmonized Tariff Schedule of the United States</i>	Request from the United States Trade Representative	3011	January 1997



**Table 1—Continued**

**General investigations of trade and tariff matters completed under sec. 332 of the Tariff Act of 1930 and sec. 1205 of the Omnibus Trade and Competitiveness Act of 1988, fiscal year 1997**

Investigation No. and title	Origin	USITC publication—	
		No.	Date
<b>332-378</b> <i>Fresh and Processed Potatoes: Competitive Conditions Affecting the U.S. and Canadian Industries</i>	Request from the United States Trade Representative	3050	July 1997
<b>332-379</b> <i>Likely Impact of Providing Quota-Free and Duty-Free Entry to Textiles and Apparel from Sub-Saharan Africa</i>	Request from the Committee on Ways and Means, U.S. House of Representatives	3056	September 1997
<b>332-380</b> <i>Advice Concerning the Proposed Modification of Duties on Certain Information Technology Products and Distilled Spirits</i>	Request from the United States Trade Representative	3031	April 1997
<b>332-381</b> <i>The Impact of the North American Free Trade Agreement on the U.S. Economy and Industries: A Three-Year Review</i>	Request from the United States Trade Representative	3045	June 1997
<b>1205-3</b> <i>Proposed Modifications to the Harmonized Tariff Schedule of the United States, Pursuant to Section 1205 of the Omnibus Trade and Competitiveness Act of 1988 (Addendum No. 2)</i>	Instituted by the Commission on its own motion	3049	August 1997

<sup>1</sup> In a letter dated October 17, 1995, the Committee on Ways and Means of the United States House of Representatives requested that the Commission terminate publication of the

annual and quarterly Synthetic Organic Chemicals reports by October 1, 1996.

<sup>2</sup> Investigation was terminated on October 8, 1996.

**Table 2**

**General investigations of trade and tariff matters under sec. 332 of the Tariff Act of 1930 and sec. 1205 of the Omnibus Trade and Competitiveness Act of 1988 pending on Sept. 30, 1997**

Investigation No. and title	Origin	USITC publication—	
		No.	Date
<b>332-191</b> <i>Nonrubber Footwear Statistical Report, 1996</i>	Request from the Committee on Finance, U.S. Senate	3030	March 1997
<b>332-207</b> <i>The U.S. Automobile Industry Annual 1996 Report on Selected Economic Indicators</i>	Request from the Committee on Ways and Means, U.S. House of Representatives	3028	March 1997
<b>332-227</b> <i>Caribbean Basin Economic Recovery Act: Impact on U.S. Industries and Consumers</i>	Required by sec. 215(a) of the Caribbean Basin Economic Recovery Act	3058 <sup>1</sup>	September 1997
<b>332-237</b> <i>Production Sharing: Use of U.S. Components and Materials in Foreign Assembly Operations, 1992-1995</i>	Instituted by the Commission on its own motion	3032	April 1997
<b>332-288</b> <i>Ethyl Alcohol for Fuel Use: Determination of the Base Quantity of Imports</i>	Required by the Steel Trade Liberalization Program Implementation Act	( <sup>2</sup> )	( <sup>2</sup> )
<b>332-343</b> <i>Annual Statistical Report on U.S. Imports of Textiles and Apparel: 1996</i>	Instituted by the Commission on its own motion	3038	April 1997
<b>332-345</b> <i>Recent Trends in U.S. Services Trade, 1997 Annual Report</i>	Instituted by the Commission on its own motion	3041	May 1997
<i>Shifts in U.S. Merchandise Trade in 1996</i>	Instituted by the Commission on its own motion	3051	July 1997
<b>332-350</b> <i>Monitoring of U.S. Imports of Tomatoes</i>	Required by the North American Free Trade Agreement Implementation Act	3064	September 1997
<b>332-351</b> <i>Monitoring of U.S. Imports of Peppers</i>	Required by the North American Free Trade Agreement Implementation Act	3061	September 1997

**Table 2—Continued**

**General investigations of trade and tariff matters under sec. 332 of the Tariff Act of 1930 and sec. 1205 of the Omnibus Trade and Competitiveness Act of 1988 pending on Sept. 30, 1997**

Investigation No. and title	Origin	USITC publication—	
		No.	Date
<b>332-352</b> <i>Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution</i>	Required by sec. 206 of the Andean Trade Preference Act	3058 <sup>1</sup>	September 1997
<b>332-354</b> <i>U.S. Schedule of Services Commitments</i>	Request from the United States Trade Representative	(3)	(3)
<b>332-360</b> <i>International Harmonization of Customs Rules of Origin</i>	Request from the United States Trade Representative	(3)	(3)
<b>332-362</b> <i>U.S.-Africa Trade Flows and Effects of the Uruguay Round Agreements and U.S. Trade and Development Policy</i>	Request from the United States Trade Representative	3000	October 1996
<b>332-372</b> <i>The Economic Implications of Liberalizing APEC Tariff and Nontariff Barriers to Trade</i>	Request from the United States Trade Representative	(3)	(3)
<b>332-375</b> <i>The Dynamic Effects of Trade Liberalization: An Empirical Analysis</i>	Request from the United States Trade Representative	(3)	(3)
<b>332-382</b> <i>The Likely Impact of U.S.-EU Sectoral Trade Liberalization</i>	Request from the United States Trade Representative	(3)	(3)
<b>332-383</b> <i>Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences</i>	Request from the United States Trade Representative	(3)	(3)
<b>332-384</b> <i>The Changing Structure of the Global Large Civil Aircraft Industry and Market: Implications for the Competitiveness of the U.S. Industry</i>	Request from the Committee on Ways and Means, U.S. House of Representatives	(3)	(3)

**Table 2—Continued**

**General investigations of trade and tariff matters under sec. 332 of the Tariff Act of 1930 and sec. 1205 of the Omnibus Trade and Competitiveness Act of 1988 pending on Sept. 30, 1997**

Investigation No. and title	Origin	USITC publication—	
		No.	Date
<b>332–385</b> <i>General Agreement on Trade in Services: Examination of the Schedules of Commitments Submitted by Trading Partners of Eastern Europe, the European Free Trade Area, and Turkey</i>	Request from the United States Trade Representative	( <sup>3</sup> )	( <sup>3</sup> )

<sup>1</sup> The reports on Investigations 332–227 and 332–352 were issued in a single publication.

<sup>2</sup> Not applicable.

<sup>3</sup> In progress at the end of FY 1997.

**Table 3**  
**Investigations completed under sec. 337 of the Tariff Act of 1930, fiscal year 1997**

Investigation No. and title	Complainant	Complaint filed	Federal Register notice date	Public hearing	Finding and remedy of Commission	Date orders issued	USITC publication No.
<b>337-TA-334 (remand)</b> <i>Certain Condensers, Parts Thereof and Products Containing Same, Including Air Conditioners For Automobiles</i>	Modine Manufacturing Co. Racine, WI	12-12-91, 12-23-91 (supplement)	1-23-92	(1)	Violation <sup>2</sup>	8-20-97	(1)
<b>337-TA-380</b> <i>Certain Agricultural Tractors Under 50 Power Take-off Horsepower</i>	Kubota Tractor Corp. Torrance, CA  Kubota Manuf. of America Corp. Gainesville, GA  Kubota Corp. Osaka, Japan	1-16-96, 2-2-96 (supplement)	2-22-96	(1)	Violation <sup>3</sup>	2-25-97	3026
<b>337-TA-381</b> <i>Certain Electronic Products, Including Semi-conductor Products, Manufactured by Certain Processes</i>	Texas Instruments, Inc. Dallas, TX	1-16-96; 1-31-96, 2-5-96 (supplements)	2-22-96	(1)	Terminated <sup>4</sup>	2-27-97	(1)
<b>337-TA-382</b> <i>Certain Flash Memory Circuits and Products Containing Same</i>	SanDisk, Corp. Santa Clara, CA	1-11-96	2-26-96	(1)	Violation <sup>5</sup>	6-2-97	3046
<b>337-TA-385</b> <i>Certain Random Access Memories, Processes for the Manufacture of Same, and Products Containing Same</i>	Samsung Electronics Co., Ltd. Seoul, Korea	2-12-96; 2-29-96, 3-5-96, 3-8-96 (supplements)	3-19-96	(1)	Terminated <sup>4</sup>	2-27-97	(1)
<b>337-TA-386</b> <i>Certain Global Positioning System Coarse Acquisition Code Receivers and Products Containing Same</i>	Trimble Navigation Sunnyvale, CA	2-21-96; 3-5-96, 3-12-96 (supplements)	3-28-96	(1)	Terminated <sup>4</sup>	11-1-96	(1)



**Table 3—Continued**  
**Investigations completed under sec. 337 of the Tariff Act of 1930, fiscal year 1997**

Investigation No. and title	Complainant	Complaint filed	Federal Register notice date	Public hearing	Finding and remedy of Commission	Date orders issued	USITC publication No.
<b>337-TA-387</b> <i>Certain Self-Powered Fiber Optic Modems</i>	Patton Electronics Co. Gaithersburg, MD	3-26-96; 4-17-97 (amendment)	5-1-96	( <sup>1</sup> )	Terminated <sup>4</sup>	11-21-96	( )
<b>337-TA-388</b> <i>Certain Dynamic Random Access Memory Controllers and Certain Multi-Layer Integrated Circuits, As Well As Chipsets and Products Containing Same</i>	Intel Corp. Santa Clara, CA	5-13-96; 5-24-96, 6-4-96 (amendments) 5-28-96 (supplement)	6-19-96	( <sup>1</sup> )	Terminated <sup>4</sup>	4-9-97	( <sup>1</sup> )
<b>337-TA-389</b> <i>Certain Diagnostic Kits for the Detection and Quantification of Viruses</i>	Hoffman-La Roche, Inc. Nutley, NJ	6-25-96	7-29-96	( <sup>1</sup> )	Terminated <sup>4</sup>	8-11-97	( <sup>1</sup> )
<b>337-TA-390</b> <i>Certain Transport Vehicle Tires</i>	Michelin North America, Inc. Greenville, SC	7-1-96; 7-2-96, 7-3-96 (supplements)	8-7-96	( <sup>1</sup> )	Terminated <sup>6</sup>	2-28-97	( <sup>1</sup> )

<sup>1</sup> Not applicable.

<sup>2</sup> Limited exclusion order. Termination of investigation and denial of petition for reconsideration.

<sup>3</sup> General exclusion order and cease and

desist orders. President took no action; became final 4-26-97.

<sup>4</sup> Settlement agreement.

<sup>5</sup> Limited exclusion order and cease and desist order. President took no action; became

final 8-2-97. Commission rescinded the limited exclusion order and the cease and desist order on the basis of a settlement agreement 9-18-97.

<sup>6</sup> Withdrawal of complaint.

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**Table 4**  
**Investigations under sec. 337 of the Tariff Act of 1930 pending on Sept. 30, 1997**

<b>Investigation No. and title</b>	<b>Complainant</b>	<b>Complaint filed</b>	<b>Federal Register notice date</b>
<b>337-TA-383</b> <i>Certain Hardware Logic Emulation Systems and Components Thereof</i>	Quickturn Design Systems, Inc. Mountain View, CA	1-26-96; 2-16-96, 2-23-96 (supplements)	3-8-96
<b>337-TA-391</b> <i>Certain Toothbrushes and the Packaging Thereof</i>	Proctor and Gamble Co. Cincinnati, OH	10-25-96; 11-14-96 (amendment) 11-18-96, 11-19-96 (supplements)	12-18-96
<b>337-TA-392</b> <i>Certain Digital Satellite Systems (DSS) Receivers and Components Thereof</i>	Personalized Media Communications L.L.C. New York, NY	11-13-96; 11-25-96, 12-2-96 (supplements)	12-18-96
<b>337-TA-393</b> <i>Certain Ion Trap Mass Spectrometers and Components Thereof</i>	Finnigan Corp. San Jose, CA	1-24-97; 2-13-97 (supplement)	2-26-97
<b>337-TA-394</b> <i>Certain Screen Printing Machines, Vision Alignment Devices Used Therein, and Component Parts Thereof</i>	MPM Corp. Franklin, MA	1-28-97; 2-11-97, 2-13-97, 2-18-97 (supplements)	3-5-97
<b>337-TA-395</b> <i>Certain EPROM, EEPROM, Flash Memory, and Flash Microcontroller Semiconductor Devices and Products Containing Same</i>	Atmel Corp. San Jose, CA	2-18-97; 3-7-97, 3-12-97 (letters) 3-10-97, 3-13-97 (supplements)	3-21-97
<b>337-TA-396</b> <i>Certain Removable Electronic Cards and Electronic Card Reader Devices and Products Containing Same</i>	Innovatron S.A. Paris, France	2-11-97; 3-14-97 (amendment) 3-20-97 (supplement)	4-2-97

**Table 4—Continued**  
**Investigations under sec. 337 of the Tariff Act of 1930 pending on Sept. 30, 1997**

Investigation No. and title	Complainant	Complaint filed	Federal Register notice date
<b>337-TA-397</b> <i>Certain Dense Wavelength Division Multiplexing Systems and Components Thereof</i>	Ciena Corp. Savage, MD	2-18-97; 3-17-97 (amendment) 3-21-97, 3-25-97 (supplements)	4-9-97
<b>337-TA-398</b> <i>Certain Multiple Implement, Multi-Function Pocket Knives and Related Packaging and Promotional Materials</i>	Swiss Army Brands, Inc. Swiss Army Brand Ltd. Shelton, CT  Precise Imports Corp. (d/b/a Precise Intl) Orangeburg, NY	3-13-97; 3-21-97, 3-27-97, 4-29-97 (supplements) 3-28-97, 5-8-97 (amendment)	5-27-97
<b>337-TA-399</b> <i>Certain Fluid-Filled Ornamental Lamps</i>	Haggerty Enterprises, Inc. Chicago, IL	5-22-97; 6-20-96 (supplement)	7-1-97
<b>337-TA-400</b> <i>Certain Telephonic Digital Added Main Line Systems, Components Thereof, and Products Containing The Same</i>	Raychem Corp. Menlo Park, CA	7-15-97; 8-7-97 (supplement)	8-20-97
<b>337-TA-401</b> <i>Certain CD-Rom Controllers and Products Containing Same</i>	Oak Technology, Inc. Sunnyvale, CA	7-21-97; 8-1-97 <sup>1</sup> 8-7-97 (supplement)	8-27-97

<sup>1</sup> Withdrawal of certain proposed respondents.



**Table 5**  
**Countervailing duty investigations completed under sec. 701 of the Tariff Act of 1930, fiscal year 1997**

Investigation No. and title	Preliminary investigation					Final investigation				
	(a) Request (b) Conference (c) Report to Secretary of Commerce	Affirmative	Negative/ negligibility <sup>1</sup>	Not partici- pating	USITC publi- cation No.	(a) Advice received from Commerce (b) Hearing (c) Report to Secretary of Commerce	Affirmative	Negative/ negligibility <sup>1</sup>	Not partici- pating	USITC publi- cation No.
<b>701-TA-368-371</b> <i>Certain Steel Wire Rod from Canada, Germany, Trinidad and Tobago, and Venezuela</i>	(a) 2-26-97 (b) 3-19-97 (c) 4-14-97	Miller Bragg Newquist Crawford <sup>2</sup>	Crawford <sup>3</sup>	( <sup>4</sup> )	3037	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )
<b>701-TA-372</b> <i>Fresh Atlantic Salmon from Chile</i>	(a) 6-12-97 (b) 7-3-97 (c) 7-28-97	Miller Bragg Crawford	( <sup>4</sup> )	Newquist <sup>5</sup>	3052	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )
<b>701-TA-373</b> <i>Stainless Steel Wire Rod from Germany, Italy, Japan, Korea, Spain, Sweden, and Taiwan</i>	(a) 7-30-97 (b) 8-21-97 (c) 9-15-97	Miller Bragg Newquist Crawford	( <sup>4</sup> )	( <sup>4</sup> )	3060	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )	( <sup>4</sup> )

<sup>1</sup> For definition of negligibility, see page 65.

<sup>2</sup> With respect to Canada, Germany, and Venezuela.

<sup>3</sup> With respect to Trinidad and Tobago.

<sup>4</sup> Not applicable.

<sup>5</sup> Commissioner Newquist did not participate in order to avoid the appearance of a conflict of interest.

**Table 6****Antidumping duty investigations completed under sec. 731 of the Tariff Act of 1930, fiscal year 1997**

Investigation No. and title	Preliminary investigation					Final investigation					
	(a) Request (b) Conference (c) Report to Secretary of Commerce	Affirmative	Negative/ negligibility <sup>1</sup>	Not partici- pating	USITC publi- cation No.	(a) Advice received from Commerce (b) Hearing (c) Report to Secretary of Commerce	Affirmative	Negative/ negligibility <sup>1</sup>	Not partici- pating	USITC publi- cation No.	
<b>731-TA-556</b> <b>(remand)</b> <i>DRAMs of One Megabit and Above from the Republic of Korea</i>	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	(a) 7-5-96 (b) ( <sup>2</sup> ) (c) 10-3-96	Bragg Newquist Nuzum	Watson	Miller <sup>3</sup> Crawford <sup>4</sup>	2997	
<b>731-TA-741-743</b> <i>Melamine Institu- tional Dinnerware from China, Indo- nesia, and Taiwan</i>	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	(a) 8-22-96 (b) 1-9-97 (c) 2-18-97	Miller <sup>5</sup> Bragg <sup>5</sup> Newquist <sup>5</sup>	Miller <sup>6</sup> Bragg <sup>6</sup> Newquist <sup>6</sup> Crawford	( <sup>2</sup> )	3016	
<b>731-TA-744</b> <i>Certain Brake Drums and Rotors from China</i>	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	(a) 10-10-96 (b) 2-28-97 (c) 4-9-97	Miller <sup>7</sup> Bragg <sup>7</sup> Newquist <sup>7</sup>	Miller <sup>8</sup> Bragg <sup>8</sup> Newquist <sup>8</sup> Crawford	( <sup>2</sup> )	3035	
<b>731-TA-745</b> <i>Steel Concrete Reinforcing Bars from Turkey</i>	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	(a) 10-10-96 (b) 2-26-97 (c) 4-9-97	Miller Bragg Newquist	Crawford	( <sup>2</sup> )	3034	
<b>731-TA-746</b> <i>Beryllium Metal and High-Beryllium Alloys from Kazakstan</i>	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	(a) 8-26-96 (b) 1-22-97 (c) 2-24-97	Miller	Bragg Newquist Crawford	( <sup>2</sup> )	3019	
<b>731-TA-748</b> <i>Engineered Pro- cess Gas Turbo- Compressor Systems from Japan</i>	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	(a) 12-9-96 (b) 4-24-97 (c) 6-9-97	Miller Bragg Newquist	Crawford	( <sup>2</sup> )	3042	

Table 6—Continued

Antidumping duty investigations completed under sec. 731 of the Tariff Act of 1930, fiscal year 1997

Investigation No. and title	Preliminary investigation					Final investigation				
	(a) Request received (b) Conference (c) Report to Secretary of Commerce	Affirmative	Negative/ negligibility <sup>1</sup>	Not partici- pating	USITC publi- cation No.	(a) Advice received from Commerce (b) Hearing (c) Report to Secretary of Commerce	Affirmative	Negative/ negligibility <sup>1</sup>	Not partici- pating	USITC publi- cation No.
<b>731-TA-749</b> <i>Persulfates from China</i>	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	(a) 12-26-96 (b) 5-14-97 (c) 6-25-97	Miller Bragg Newquist Crawford	( <sup>2</sup> )	( <sup>2</sup> )	3044
<b>731-TA-751</b> <i>Open-End Spun Rayon Singles Yarn from Austria</i>	(a) 8-20-96 (b) 9-10-96 (c) 10-4-96	Miller Bragg Newquist Crawford Nuzum Watson	( <sup>2</sup> )	( <sup>2</sup> )	2999	(a) 3-26-97 (b) 8-12-97 (c) 9-22-97	( <sup>2</sup> ) Miller Bragg Newquist Crawford	( <sup>2</sup> )	( <sup>2</sup> )	3059
<b>731-TA-752</b> <i>Crawfish Tail Meat from China</i>	(a) 9-20-96 (b) 10-11-96 (c) 11-4-96	Miller Bragg Newquist Crawford Nuzum	( <sup>2</sup> )	( <sup>2</sup> )	3002	(a) 3-26-97 (b) 7-28-97 (c) 9-8-97	Miller Bragg Newquist Crawford	( <sup>2</sup> )	( <sup>2</sup> )	3057
<b>731-TA-753-756</b> <i>Cut-to-length Carbon Steel Plate from China, Russia, South Africa, and Ukraine</i>	(a) 11-5-96 (b) 11-26-96 (c) 12-20-96	Miller Bragg Newquist Crawford Nuzum	( <sup>2</sup> )	( <sup>2</sup> )	3009	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )
<b>731-TA-757-759</b> <i>Collated Roofing Nails from China, Korea, and Taiwan</i>	(a) 11-26-96 (b) 12-17-96 (c) 1-10-97	Miller Bragg Newquist Crawford Nuzum	( <sup>2</sup> )	( <sup>2</sup> )	3010	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )

Table 6—Continued

Antidumping duty investigations completed under sec. 731 of the Tariff Act of 1930, fiscal year 1997

Investigation No. and title	Preliminary investigation					Final investigation				
	(a) Request received (b) Conference (c) Report to Secretary of Commerce	Affirmative	Negative/ negligibility <sup>1</sup>	Not partici- pating	USITC publi- cation No.	(a) Advice received from Commerce (b) Hearing (c) Report to Secretary of Commerce	Affirmative	Negative/ negligibility <sup>1</sup>	Not partici- pating	USITC publi- cation No.
<b>731-TA-760</b> <i>Needle Bearing Wire from Japan</i>	(a) 2-14-97 (b) 3-7-97 (c) 3-31-97	(2)	Miller Bragg Newquist Crawford	(2)	3033	(2)	(2)	(2)	(2)	(2)
<b>731-TA-761-762</b> <i>Static Random Access Memory Semiconductors from the Republic of Korea and Taiwan</i>	(a) 2-25-97 (b) 3-18-97 (c) 4-18-97	Bragg Newquist Crawford <sup>9</sup>	(2)	Miller <sup>3</sup> Crawford <sup>10</sup>	3036	(2)	(2)	(2)	(2)	(2)
<b>731-TA-763-766</b> <i>Certain Steel Wire Rod from Canada, Germany, Trinidad and Tobago, and Venezuela</i>	(a) 2-26-97 (b) 3-19-97 (c) 4-14-97	Miller Bragg Newquist Crawford <sup>11</sup>	Crawford <sup>12</sup>	(2)	3037	(2)	(2)	(2)	(2)	(2)
<b>731-TA-767</b> <i>Ultra High Temperature Milk from Canada (withdrawn 3-28-97)</i>	(a) 3-17-97	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
<b>731-TA-768</b> <i>Fresh Atlantic Salmon from Chile</i>	(a) 6-12-97 (b) 7-3-97 (c) 7-28-97	Miller Bragg Crawford	(2)	Newquist <sup>13</sup>	3052	(2)	(2)	(2)	(2)	(2)

Table 6—Continued

Antidumping duty investigations completed under sec. 731 of the Tariff Act of 1930, fiscal year 1997

Investigation No. and title	Preliminary investigation					Final investigation				
	(a) Request received (b) Conference (c) Report to Secretary of Commerce	Affirmative	Negative/ negligibility <sup>1</sup>	Not partici- pating	USITC publi- cation No.	(a) Advice received from Commerce (b) Hearing (c) Report to Secretary of Commerce	Affirmative	Negative/ negligibility <sup>1</sup>	Not partici- pating	USITC publi- cation No.
<b>731-TA-769-775</b> <i>Stainless Steel Wire Rod from Germany, Italy, Japan, Korea, Spain, Sweden, and Taiwan</i>	(a) 7-30-97 (b) 8-21-97 (c) 9-15-97	Miller Bragg Newquist Crawford	( <sup>2</sup> )	( <sup>2</sup> )	3060	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )	( <sup>2</sup> )

<sup>1</sup> For definition of negligibility, see page 65.<sup>2</sup> Not applicable.<sup>3</sup> Chairman Miller recused herself in order to avoid the appearance of a conflict of interest.<sup>4</sup> Commissioner Crawford recused herself in order to avoid the appearance of a conflict of interest.<sup>5</sup> With respect to dinnerware for institutional use.<sup>6</sup> With respect to dinnerware for non-institutional use.<sup>7</sup> With respect to imports of rotors.<sup>8</sup> With respect to imports of brake drums.<sup>9</sup> With respect to imports of static random access memory semiconductors from the Republic of Korea.<sup>10</sup> Commissioner Crawford recused herself with respect to imports of static random access

memory semiconductors from Taiwan in order to avoid the appearance of a conflict of interest.

<sup>11</sup> With respect to imports of steel wire rod from Canada, Germany, and Venezuela.<sup>12</sup> With respect to imports of steel wire rod from Trinidad and Tobago.<sup>13</sup> Commissioner Newquist did not participate in order to avoid the appearance of a conflict of interest.



**Table 7****Antidumping and countervailing duty investigations pending on Sept. 30, 1997**

<b>Investigation No. and title</b>	<b>Effective date</b>
<b>731-TA-374 (final)</b> <i>Potassium Chloride from Canada</i> (suspended)	8-25-87
<b>731-TA-519 (final)</b> <i>Gray Portland Cement and Cement Clinker from Venezuela</i> (suspended)	11-4-91
<b>731-TA-539 (A-C and F) (final)</b> <i>Uranium from Kazakstan, Kyrgystan, Russia, and Uzbekistan</i> (suspended)	10-21-92
<b>731-TA-661-662 (final)</b> <i>Color Negative Photographic Paper and Certain Chemical Components from Japan and the Netherlands</i> (suspended)	8-19-94
<b>731-TA-722 (final)</b> <i>Honey from the People's Republic of China</i> (suspended)	8-2-95
<b>731-TA-740 (final)</b> <i>Sodium Azide from Japan</i> (suspended)	1-7-97
<b>731-TA-747 (final)</b> <i>Fresh Tomatoes from Mexico</i> (suspended)	11-1-96
<b>731-TA-750 (final)</b> <i>Vector Supercomputers from Japan</i>	4-1-97
<b>731-TA-753-756 (final)</b> <i>Certain Carbon Steel Plate from China, Russia, South Africa, and Ukraine</i>	6-10-97
<b>731-TA-757-759 (final)</b> <i>Collated Roofing Nails from China, Korea, and Taiwan</i>	5-9-97
<b>701-TA-368-371 (final)</b> <i>Certain Steel Wire Rod from Canada, Germany, Trinidad and Tobago, and Venezuela</i>	8-1-97
<b>303-TA-21 (final)</b> <i>Gray Portland Cement and Cement Clinker from Venezuela</i> (suspended)	3-18-94

**Table 8****Investigations under sec. 22 of the Agricultural Adjustment Act pending on Sept. 30, 1997**

Investigation No. and title	Request received	Date investigation instituted	Public hearing	Findings and recommendations	Date report was—		USITC publication No.
					Submitted to President	Released (public version)	
<b>22-55</b> <i>Peanut Butter and Peanut Paste</i> (suspended 6-28-94)	11-17-93	1-18-94	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )

<sup>1</sup> Not applicable.**Table 9****Review investigations under sec. 751 of the Tariff Act of 1930 pending on Sept. 30, 1997**

Investigation No. and title	Origin
<b>751-TA-15</b> <i>Stainless Steel Plate from Sweden</i> (suspended 8-16-93)	Instituted by the Commission on its own motion 6-30-93

**Table 10****Safeguard investigations under sec. 201 of the Trade Act of 1974 pending on Sept. 30, 1997**

Investigation No.	Article concerned	Petitioner or requester	Petition or request filed	Public hearing	Finding of Commission	Affirmative	Negative	Not participating	To the President	USITC publication No.
TA-201-67	<i>Wheat Gluten</i>	Wheat Gluten Industry Council	9-19-97	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )

<sup>1</sup> Not applicable.

# APPENDIX B

## REPORTS COMPLETED DURING FISCAL YEAR 1997 AND PENDING ON SEPTEMBER 30, 1997

### Section 332 Studies Completed During FY 1997

See also the Highlights section of this report for details on some of the more significant analytical section 332 studies completed during the year.

#### *The U.S. Automobile Industry Monthly Report on Selected Economic Indicators (332-207)*

In December 1980, the House Committee on Ways and Means requested that the ITC provide it with monthly data on U.S. automobile imports, sales, production, and prices. The resulting ITC investigation was begun in 1981. The Committee renewed its request four times between 1981 and 1985, with the request in 1985 having no fixed date for termination. In October 1995, the Committee requested that the Commission change its publication schedule from monthly to quarterly reports, effective immediately, and by January 1996 move to an annual publication and terminate the report by January 1998. Accordingly, during FY 1997, the ITC published an annual report covering 1996 in March 1997. This is the final report in this

investigation. The ITC report uses trade data compiled from official statistics of the U.S. Department of Commerce. Sales, production, and certain price data are derived from *Automotive News*, an auto industry publication. The U.S. Department of Labor provides employment and consumer and producer price data, while quarterly financial results for U.S.-owned automakers are from various public sources.

#### *U.S.-Africa Trade Flows and Effects of the Uruguay Round Agreements and U.S. Trade and Development Policy (Second Annual Report) (332-362)*

On March 30, 1995, the USTR requested that the ITC investigate the effects of U.S. trade and development policy and the Uruguay Round on U.S.-Africa trade flows. The USTR requested that the investigation include five annual reports to the President under the Africa Policy Section of the Statements of Administrative Action that Congress approved with the Uruguay Round Agreements Act. The second ITC report, submitted in October 1996, provided an update for

the latest year available of U.S.-Africa trade and investment flows in major sectors. The report also identified major developments in the WTO and in U.S. trade/economic policy and commercial activities that significantly affect U.S.-Africa trade and investment flows by sector during the latest year; updated information on changing trade and economic activities within African countries; and included information on progress in regional integration in Africa. As with the first report, submitted to the USTR in February 1996, the ITC limited its study to the 48 countries in Sub-Saharan Africa.

#### *Advice on Providing Additional GSP Benefits for Least-Developed Countries (332-370)*

On September 16, 1996, the USTR requested that the ITC investigate the probable economic effects of providing duty-free treatment under the Generalized System of Preferences (GSP) for certain articles from 37, mainly African, least-developed beneficiary developing countries (LDBCs). The confidential ITC report was submitted to the USTR in February 1997. A public version of the report, with the

probable economic effects advice and all confidential business information deleted, was issued in March 1997.

#### *Advice on Providing Temporary Duty-Free Entry for Certain Suits and Suit-Type Jackets from Mexico (332-373)*

On November 18, 1996, the USTR requested that the ITC provide advice concerning the probable effect of providing temporary duty-free entry for certain suits and suit-type jackets from Mexico containing certain imported interlining fabrics, provided that the fabrics have been cut in the United States and the garments otherwise meet criteria of HTS heading 9802.00.90. USTR requested that the ITC provide advice as to the probable effect of such action on affected segments of the U.S. textile and apparel industries, workers in these industries, and consumers of affected goods. HTS heading 9802.00.90 provides for duty- and quota-free entry for apparel and other textile goods assembled in Mexico from fabric wholly made and cut in the United States. A recent loss of domestic supply of certain interlining fabrics used in the assembly of these suits and suit-type jackets in Mexico had

precluded U.S. firms from importing the garments under the provision. U.S. textile and apparel industry officials had asked that the President authorize temporary duty-free entry for these suits and suit-type jackets from Mexico until such interlining fabrics could be made in the United States. The ITC report, submitted in January 1997, found that temporary duty-free entry for certain suits and suit-type jackets from Mexico would not affect U.S. shipments of similar domestically produced suits and suit-type jackets, associated U.S. employment, or prices to consumers.

### **Recurring Industry Surveys Under Section 332**

#### *Nonrubber Footwear Quarterly Statistical Report (332-191)*

On August 8, 1984, the Senate Committee on Finance requested that the ITC investigate and publish quarterly reports on nonrubber footwear. In February 1996, the Committee requested that the Commission change its publication schedule from quarterly to annual reports, effective January 1, 1996, and cease publishing the report in the year 2000. The Committee requested that the annual report continue to include data on production and/or shipments, imports, exports, apparent consumption, market share, employment, unemployment, and plant closings. The ITC annual

report containing data for 1996 was submitted in March 1997.

#### *Caribbean Basin Economic Recovery Act: Impact on U.S. Industries and Consumers, Twelfth Report (332-227)*

#### *Andean Trade Preference Act: Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution (Fourth Report 1996) (332-352)*

Section 215 of the Caribbean Basin Economic Recovery Act (CBERA) requires the ITC to annually report on the operation of the program. The CBERA, which became effective January 1, 1984, affords preferential tariff treatment to most products of 24 designated Caribbean, Central American, and South American countries. Section 206 of the Andean Trade Preference Act (ATPA) requires the ITC to submit annual reports to the Congress and the President evaluating the economic impact of the ATPA on U.S. industries and consumers and discussing the ATPA's effectiveness in promoting drug-related crop eradication and crop substitution in the four Andean beneficiary countries — Bolivia, Colombia, Ecuador, and Peru. Beginning with the reports submitted in September 1997, the ITC has combined the two annual reports into one publication.

The ITC found that the overall effect of CBERA- and ATPA-exclusive imports on the U.S. economy and consumers was negligible in 1996. A few U.S. industries were identified as potentially experiencing displacement by CBERA and ATPA imports of more than an estimated 5 percent of the value of U.S. production. In the case of CBERA, these industries were seasonal cantaloupes and melons, higher-priced cigars, and fresh pineapples. In the case of ATPA, the affected industries were chrysanthemums, carnations, anthuriums, and orchids; fresh cut roses; asparagus; and miniature spray carnations. Analysis of U.S. trade data for the 1991-96 period suggests that after the inception of the NAFTA, U.S. imports increased from both the CBERA countries and the NAFTA partners, and imports declined from the rest of the world. The ITC found that ATPA appears to have had a slight but positive effect on drug crop eradication and crop substitution in the Andean region in 1996. Eradication efforts contributed to an overall decline in the volume of land under coca cultivation, and alternative development efforts to introduce new products and expanded production in the region are beginning to show promising results.

#### *Production Sharing: Use of U.S. Components and Materials in*

#### *Foreign Assembly Operations, 1992-1995 (332-237)*

On September 4, 1986, the Commission instituted on its own motion an annual investigation that assesses by industry sector the products and countries that use the production sharing provisions of the HTS. These provisions provide reduced tariff treatment for eligible goods assembled or processed in foreign locations that contain U.S.-made components or U.S.-origin metal. The ITC annual report containing data for the years 1992-95, published in April 1997, found that the value of U.S.-made components exported for assembly in foreign locations then returned as imported products under the production sharing provisions reached \$22.1 billion in 1995. This 13-percent increase over 1994 levels was driven chiefly by the NAFTA's preferential treatment of imported apparel products from Mexico made from U.S.-cut fabric and a strong U.S. market for computers and other products using semiconductors made from U.S.-fabricated chips. This year's report also includes a special chapter that examines changes in the maquiladora industry in Mexico since the implementation of the NAFTA.

#### *Ethyl Alcohol for Fuel Use: Determination of the Base Quantity of Imports (332-288)*

Section VII of the 1989 Steel Trade Liberalization Program



Implementation Act requires the ITC to determine annually the U.S. domestic market for fuel ethyl alcohol during the 12-month period ending on the preceding September 30. Section VII of the Act concerns local feedstock requirements for fuel ethyl alcohol imported into the United States from Caribbean Basin Initiative (CBI) beneficiary countries. The ITC's domestic market estimate is used to establish the "base quantity" of imports that can be imported with a zero percent local feedstock requirement. Beyond the base quantity of imports, progressively higher local feedstock requirements are placed on imports of fuel ethyl alcohol and mixtures from the CBI beneficiary countries. The ITC uses official statistics of the U.S. Department of Energy to make its determinations. For the 12-month period ending September 30, 1996, the ITC determined that the base quantity for 1997 was 79.7 million gallons. The ITC announced this determination in December 1996.

*Annual Statistical Report on U.S. Imports of Textiles and Apparel: 1996 (332-343)*

On June 15, 1993, the Commission instituted on its own motion an investigation on U.S. imports of textiles and apparel under the Multifiber Arrangement. The ITC has published similar data on an annual basis since 1981.

The Commission initially announced that it would publish reports in 1993, 1994, and 1995. In July 1996, the Commission announced it would continue publishing the reports through 1998, after which it will again review the question of whether to continue issuing such reports. The annual reports in this investigation provide statistics on U.S. textile and apparel imports for the most recent year and at least three preceding years, broken down by fibers, broad product groups, and regional country groups. The reports present data for the 35 largest countries by value, whether or not their products are covered by a quota. The country data are in terms of the product categories used to administer the U.S. trade agreements program for textiles and apparel. The ITC published its report containing 1996 data in April 1997.

*Monitoring of U.S. Imports of Tomatoes (332-350)*

*Monitoring of U.S. Imports of Peppers (332-351)*

Section 316 of the NAFTA Implementation Act requires the ITC to monitor U.S. imports of "fresh or chilled tomatoes" and "fresh or chilled peppers, other than chili peppers" until January 1, 2009. The ITC reports were submitted in September 1997 to the House Committee on Ways and Means; the Senate Committee on Finance; the

Senate Committee on Agriculture, Nutrition and Forestry; the House Committee on Agriculture; and the USTR. Each contained statistical information for the respective industry gathered by the ITC in the course of its monitoring. The reports include current conditions in the U.S. industry in such areas as production, imports, exports, and prices.

*U.S. Schedule of Services Commitments (332-354)*

On April 18, 1994, the USTR requested that the ITC initiate an ongoing program to compile and maintain the United States Schedule of Services Commitments. The establishment of such a schedule was required by the General Agreement on Trade in Services (GATS), which was negotiated as part of the GATT Uruguay Round of multilateral trade negotiations. The GATS provides for the establishment of national schedules of commitments by countries setting forth their national commitments pertaining to specific service sectors. These schedules bind countries to maintain a minimum level of market access and bind them to a national treatment obligation. The GATS also provides for a broad most-favored nation (MFN) obligation, unless nations provide a list of exceptions for MFN treatment. The schedules and MFN exceptions will provide

the basis for efforts to further liberalize international trade in services. The USTR requested that the ITC compile an initial U.S. Schedule reflecting the final services commitments made in the Uruguay Round and work with the USTR to update the U.S. Schedule, as necessary, to reflect all future commitments resulting from the post-Uruguay Round negotiations on financial, telecommunications, and maritime services, and future bilateral and multilateral services negotiations undertaken by the USTR. The ITC compiled an initial U.S. Schedule and submitted it to the USTR in October 1994. Changes to the telecommunications section of the U.S. Schedule were completed in May 1997.

*Program to Maintain Investment Restrictions Database (332-377)*

On January 8, 1997, the USTR requested that the ITC develop a confidential database that identifies and provides pertinent information regarding foreign investment restrictions. In her request letter, the USTR indicated that the database would assist USTR in assessing the value of commitments undertaken by other countries and reporting on the final outcome of negotiations currently underway to develop a multilateral agreement on investment within the Organization for Economic Cooperation and Development.

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## Section 332 Studies in Progress at the End of FY 1997

### *International Harmonization of Customs Rules of Origin (332-360)*

On January 25, 1995, the USTR requested that the ITC investigate the international harmonization of customs rules of origin. The investigation will provide the basis for ITC participation in work related to the Uruguay Round Agreement on Rules of Origin, negotiated in the GATT Uruguay Round negotiations and adopted along with the Agreement Establishing the World Trade Organization.

The ITC investigation will include soliciting public input to ensure that U.S. business interests are recognized in the development of U.S. proposals, participating in the development and representation of U.S. proposals before the World Customs Organization and the WTO, and conducting other research as required. At the conclusion of its analysis, the ITC will prepare a final report to the President and the Congress.

### *U.S.-Africa Trade Flows and Effects of the Uruguay Round Agreements and U.S. Trade and Development Policy (Third Annual Report) (332-362)*

On March 30, 1995, the USTR requested that the ITC investigate the effects of U.S. trade and development

policy and the Uruguay Round on U.S.-Africa trade flows. The USTR requested that the investigation include five annual reports to the President under the Africa Policy Section of the Statements of Administrative Action that Congress approved with the Uruguay Round Agreements Act. The first ITC report was submitted to the USTR in February 1996; the second report was submitted in October 1996. The third annual report will include an update of U.S.-Africa trade and investment flows for the latest year available, including both overall trade and trade in the following major sectors: agriculture, forest products, textiles and apparel, footwear, energy, chemicals, minerals and metals, machinery, transportation equipment, electronics technology, miscellaneous manufactures, and services. The report will also include basic trade flow information for U.S. trade with the Southern African Customs Union, the Southern African Development Community, the Western African Economic and Monetary Union, and the Common Market for Eastern and Southern Africa. The report will also identify major developments in the WTO and in U.S. trade/economic activities that significantly affect U.S.-Africa trade and investment flows by sector during the latest year and changing trade and economic activities within African countries that have a significant impact on U.S.-Africa trade flows. The USTR also requested that

the third report include information on progress in regional integration in Africa. As with the first two reports, the ITC will limit its study to the 48 countries in Sub-Saharan Africa. Scheduled completion: October 1997.

### *The Economic Implications of Liberalizing APEC Tariff and Nontariff Barriers to Trade (332-372)*

On November 1, 1996, the USTR requested that the ITC conduct a factfinding investigation on the economic implications of liberalizing tariff and nontariff barriers to trade within the Asia-Pacific Economic Cooperation (APEC) region. As requested, the ITC's investigation included a public symposium, held on September 11 and 12, 1997, in which economic researchers presented papers on the identification and assessment of the impact of nontariff barriers to trade and investment in the APEC region and on the general equilibrium modeling of APEC trade liberalization. The symposium examined critically, through peer review by recognized experts, studies recently completed or under development that met recognized academic standards. The ITC's final report will assess the principal results presented at the symposium, compile the technical papers submitted in the symposium (with any revisions or comments made by the authors in response to the critiques received in the

symposium), compile written critiques of the papers presented, and provide an objective summary and critique by the Commission of the analytical framework and of the main findings of the papers. Scheduled completion: April 1998.

### *Dynamic Effects of Trade Liberalization: An Empirical Analysis (332-375)*

On November 1, 1996, the USTR requested that the ITC update its 1993 investigation on the dynamic effects of trade liberalization (Inv. No. 332-324, USITC publication 2608, February 1993). In her request letter, the USTR noted that the first investigation primarily covered theoretical literature, and that since the release of the 1993 report, the empirical literature on trade, growth, and the dynamic relationships between the two, including attempts to simulate the dynamic effects of actual or potential trade agreements, has expanded rapidly. As requested, the ITC will review and summarize the existing literature on the dynamic effects from trade, both theoretical and empirical, completed and in progress, with an emphasis on empirical literature. The ITC will include as background a general discussion of the relationship between trade and the underlying causes of economic growth, such as capital accumulation, technological change, and labor force growth. The ITC will also provide a

comprehensive and critical assessment of the results that this body of literature provides regarding the dynamic gains from trade, identifying the merits and shortcomings of the technical methods, data, and results in the existing literature. The ITC will also explore empirically the potential improvements that its assessment may suggest. Scheduled completion: October 1997.

*The Likely Impact of U.S.-EU Sectoral Trade Liberalization* (332-382)

On August 11, 1997, the USTR requested that the ITC investigate the likely economic impact of further trade liberalization in the transatlantic region. In her request letter, the USTR noted that the United States and Europe have agreed to conduct a joint study to consider the potential effects of creating a closer economic integration between the U.S. and the EU. The letter stated that the USTR and the EU have established an approach to the study that involves focusing on sectors or issue areas that warrant analysis of the potential effects of the removal of barriers to U.S.-EU trade while also assessing the broad economic impact of such liberalization. As requested, the ITC will analyze the likely impact on U.S. commerce of potential U.S.-EU sectoral trade liberalization. The sectors of interest for the study include automobiles and light trucks; biotechnology (utilized in the production

of goods); chemicals; electronics; non-ferrous metals; paper and paper products; and pharmaceuticals. The ITC will conduct the analysis in two phases. Phase I will identify and describe the most significant barriers to trade and investment in the U.S. and EU for each study sector. Phase II will assess, wherever possible, the likely impact of removing these barriers. Scheduled completion: Phase I, November 1997; Phase II, April 1998.

*The Changing Structure of the Global Large Civil Aircraft Industry and Market: Implications for the Competitiveness of the U.S. Industry* (332-384)

On August 13, 1997, the House Committee on Ways and Means requested that the ITC investigate the global competitiveness of the U.S. large civil aircraft industry. In its request letter, the Committee noted that there have been many important developments in the global large civil aircraft industry since the ITC completed a study on the industry for the Senate Committee on Finance in August 1993 (*Global Competitiveness of U.S. Advanced-Technology Manufacturing Industries: Large Civil Aircraft*, Inv. No. 332-332, USITC publication 2667). As requested, the new ITC study will be similar in scope to the earlier study, and it will include information on changes in the structure of the global large civil aircraft industry, including the McDonnell

Douglas merger, the restructuring of Airbus Industrie, the emergence of Russian producers, and the possibility of Asian parts suppliers forming consortia to manufacture complete airframes; developments in the global market for aircraft, including the emergence of regional jet aircraft and proposed jumbo jets; and issues involving "open skies" and "free flights;" the implementation and status of the 1992 U.S.-EU Large Civil Aircraft Agreement; and other significant developments that affect the competitiveness of the U.S. large civil aircraft industry. The ITC's report will cover the period 1992-1996, and to the extent possible, 1997. Scheduled completion: November 1998.

*Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences* (332-383)

On September 5, 1996, the USTR requested that the ITC provide advice concerning possible modifications to the Generalized System of Preferences. This investigation involves approximately 19 commodities. Scheduled completion: December 1997.

*Macadamia Nuts: Economic and Competitive Conditions Affecting the U.S. Industry* (332-384)

On September 11, 1997, the Senate Committee on Finance requested that the ITC investigate the factors affect-

ing competition in the macadamia nut industry. The Committee's letter cited a previous ITC investigation on the issue, completed in 1991, and noted that the U.S. macadamia nut industry has renewed concerns about the competitive factors affecting their industry, including competition from imports from Australia, Brazil, South Africa, and the Central American countries. As requested, in its current investigation the ITC will provide a description of the competitive factors affecting the domestic macadamia nut industry, including competition from imports of macadamia nuts; to the extent data are available, a description of the prices U.S. consumers pay for macadamia nuts compared with the prices paid for macadamia nuts by consumers in other major markets for the nuts, and a description of the degree to which quotas, tariffs, or other trade barriers affect such prices; and a description of the extent to which trade practices and barriers to trade by competing countries are impeding the marketing of domestically produced macadamia nuts. The ITC will also provide an analysis of current conditions of trade in macadamia nuts between the United States and macadamia nut exporting countries (in particular, Australia, Brazil, South Africa, and the Central American countries) and between the exporting countries and the rest of the world, as well as any recent changes in such conditions, including information on prices, cost of production, marketing practices, and



market shares of foreign suppliers in the U.S. market. Scheduled completion: September 1998.

***General Agreement on Trade in Services: Examination of the Schedules of Commitments Submitted by Trading Partners of Eastern Europe, The European Free Trade Area, and Turkey (332-385)***

On September 19, 1997, the USTR requested that the ITC examine the schedules of commitments submitted by 12 trading partners under the General Agreement on Trade in Services (GATS), explaining the commitments in non-technical language, and identify the potential benefits and limitations of the commitments. The countries covered by the investigation are Bulgaria, the Czech Republic, Hungary, Iceland, Liechtenstein, Norway, Poland, Romania, the Slovak Republic, Slovenia, Switzerland, and Turkey. The investigation is a follow-up to three earlier reports (see Highlights section of this report for information on *General Agreement on Trade in Services: Examination of South American Trading Partners' Schedules of Commitments* (332-367) and *General Agreement on Trade in Services: Examination of Asia-Pacific Trading Partners' Schedules of Commitments* (332-374)). As in the previous studies, the ITC will examine the schedules of commitments from the 12 trading partners as they pertain to the following service industries:

distribution services (defined as wholesaling, retailing, and franchising services); education services; communications services (defined as enhanced telecommunication services, courier services, and audiovisual services); health care services; professional services (defined as accounting, advertising, and legal services); architectural, engineering, and construction services; land-based transportation services (defined as rail and trucking services); and travel and tourism services. Scheduled completion: September 1998.

***Simplification of the Harmonized Tariff Schedule of the United States (332-388)***

On July 14, 1997, the House Committee on Ways and Means requested that the ITC propose modifications to the Harmonized Tariff Schedule of the United States to make it simpler, more transparent, and easier to use. Scheduled completion: July 2000.

**Other Publications Issued During FY 1997**

***Industry and Trade Summary Reports***

The ITC periodically issues a series of detailed reports on thousands of products imported into and exported from the United States. These reports include information on product uses, U.S. and foreign producers, and customs treatment of the products

being studied; they also analyze the basic factors bearing on the competitiveness of the U.S. industry in domestic and foreign markets. Seven such summaries were published in FY 1997: *Radar and Certain Radio Apparatus* (USITC publication 3005); *Synthetic Rubber* (USITC publication 3014); *Hides, Skins, and Leather* (USITC publication 3015); *Gemstones* (USITC publication 3018); *Nonalcoholic Beverages* (USITC publication 3020); *Synthetic Organic Pigments* (USITC publication 3021); and *Industrial Papers and Paperboards* (USITC publication 3022).

# APPENDIX C

## STATUTES INVOLVING

### THE U.S. INTERNATIONAL TRADE COMMISSION

#### Key Statutes

##### **Section 201, Trade Act of 1974 (Global Safeguard Investigations), Import Relief for Domestic Industries**

Under section 201, domestic industries seriously injured or threatened with serious injury by increased imports may petition the ITC for import relief. The ITC determines whether an article is being imported in such increased quantities that it is a substantial cause of serious injury, or threat thereof, to the U.S. industry producing an article like or directly competitive with the imported article. If the Commission makes an affirmative determination, it recommends to the President relief that would prevent or remedy the injury and facilitate industry adjustment to import competition. The President makes the final decision whether to provide relief and the amount of relief.

Section 201 does not require a finding of an unfair trade practice, as do the antidumping and countervailing duty laws and section 337 of the Tariff Act of 1930. However, the injury test under section 201 is considered to be

more difficult than those of the unfair trade statutes. Section 201 requires that the injury or threatened injury be "serious" and that the increased imports must be a "substantial cause" (not less than any other cause) of the serious injury or threat of serious injury.

Criteria for import relief under section 201 are based on those in article XIX of the GATT, as further defined in the WTO Agreement on Safeguards. Article XIX of the GATT is sometimes referred to as the escape clause because it permits a country to "escape" temporarily from its obligations under the GATT with respect to a particular product when increased imports of that product are causing or are threatening to cause serious injury to domestic producers. Section 201 provides the legal framework under U.S. law for the President to invoke U.S. rights under article XIX.

**When:** The ITC conducts an investigation under section 201 upon receipt of a petition from a trade association, firm, certified or recognized union, or group of workers which is representative of a domestic industry; upon receipt of a request from the

President or the USTR; upon receipt of a resolution of the House Committee on Ways and Means or Senate Committee on Finance; or upon its own motion.

**Duration:** The ITC generally must make its injury finding within 120 days (150 days in more complicated cases) of receipt of the petition, request, resolution, or institution on its own motion and must transmit its report to the President, together with any relief recommendations, within 180 days after receipt of the petition, request, resolution, or institution on its own motion.

**Finding:** If the ITC finding is affirmative, it must recommend a remedy to the President, who determines what relief, if any, will be imposed. Such relief may be in the form of a tariff increase, quantitative restrictions, or orderly marketing agreements.

**Followup:** If import relief is provided, the ITC periodically reports on developments within the industry during the period of relief. Upon request, the ITC advises the President of the probable economic effect on the

industry of the reduction, modification, or termination of the relief in effect. At the conclusion of any relief period, the ITC is required to report to the President and Congress on the effectiveness of the relief action in facilitating the positive adjustment of the domestic industry to import competition. (For further information, see section 201 of the Trade Act of 1974, 19 U.S.C. 2251.)

##### **Section 302, NAFTA Implementation Act (Bilateral Safeguard Investigations)**

Under section 302 of the NAFTA Implementation Act, the Commission determines whether, as a result of the reduction or elimination in a duty under the NAFTA, increased imports from Canada or Mexico are a substantial cause of serious injury or threat of serious injury to a U.S. industry. If the Commission makes an affirmative determination, it makes a remedy recommendation to the President, who makes the final remedy decision. Section 302 investigations are similar procedurally to investigations under section 201 of the Trade Act of 1974. (For further



information, see section 301, NAFTA Implementation Act, 19 U.S.C. 3352.)

### **Section 337, Tariff Act of 1930, Investigations of Unfair Practices in Import Trade**

Under section 337, the ITC determines whether, as defined by U.S. statutory and common law, there is unfair competition in the importation of products into, or their sale in, the United States. Section 337 declares unlawful unfair methods of competition and unfair acts in the import and sale of products in the United States, the threat or effect of which is to destroy or substantially injure a domestic industry, prevent the establishment of such an industry, or restrain or monopolize trade and commerce in the United States. Section 337 also declares as unlawful *per se* infringement of a valid and enforceable U.S. patent, copyright, registered trademark, or mask work; no resulting injury need be found.

Section 337 investigations require formal evidentiary hearings in accordance with the Administrative Procedure Act (5 U.S.C. 551 et seq.). The hearings are held before an administrative law judge. Parties to these investigations include complainants, respondents, and the ITC attorney representing the public interest. Following a hearing, the ALJ issues an initial determination on all issues

related to violations of section 337. The Commission may review and may modify the ALJ decision. If the Commission does not review the initial determination, it becomes the Commission's decision. In addition to the long-term relief requested, complainants also may request temporary relief pending final resolution of the case.

**When:** After receipt of a complaint under oath from an interested party or upon its own motion, the ITC conducts an investigation to determine whether unfair methods of competition or unfair acts are occurring in the importation of articles into, or their sale in, the United States.

**Duration:** For investigations based on complaints filed prior to January 1, 1995, the ITC must make its determination not later than one year (18 months in a more complicated case) from the date of publication in the *Federal Register* of notice of the investigation. For investigations based on complaints filed after January 1, 1995, the ITC is required to conclude its investigation at the earliest practicable time, and must, within 45 days after an investigation is instituted, establish a target date for issuing its final determination.

**Finding:** In general, if the ITC finds that the importation of such articles substantially injures or threatens to substantially injure an industry, prevents the establishment of such an

industry, or restrains or monopolizes trade and commerce in the United States, it may issue orders excluding the products from entry, directing the violating parties to cease and desist from certain actions, or both. However, if the imports infringe a U.S. patent, copyright, registered trademark, or mask work, the ITC may issue an exclusion and/or cease and desist order without finding injury. ITC orders are effective when issued and become final 60 days after issuance unless disapproved for policy reasons by the President of the United States within that 60-day period. Appeals of ITC determinations may be taken to the U.S. Court of Appeals for the Federal Circuit. Violators of ITC section 337 orders are liable for civil penalties of up to \$100,000 a day or twice the value of the imported articles. (For further information, see section 337 of the Tariff Act of 1930, 19 U.S.C. 1337.)

### **Countervailing Duty and Antidumping Duty Laws Under the Tariff Act of 1930**

Under the Tariff Act of 1930, U.S. industries may petition the government for relief from imports that are sold in the United States at less than fair value ("dumped") or which benefit from subsidies provided through foreign government programs. Under the law, the U.S. Department of Commerce determines whether the dumping or subsidizing exists and, if so, the margin

of dumping or amount of the subsidy; the ITC determines whether the dumped or subsidized imports materially injure or threaten to materially injure the U.S. industry.

Countervailing duty and anti-dumping investigations are conducted under title VII of the law. The ITC conducts the injury investigations in preliminary and final phases. (For ease of reference, ITC countervailing duty investigations are referred to as "701" investigations and ITC anti-dumping investigations are referred to as "731" investigations, after the respective initial sections in the Tariff Act of 1930 for the countervailing duty and antidumping laws.)

### *Preliminary Phase Countervailing Duty Investigations (Subsidized Imports) and Preliminary Phase Antidumping Investigations (Imports Sold at Less Than Fair Value)*

**When:** After the simultaneous filing of a petition with the ITC and the U.S. Department of Commerce, the ITC conducts a preliminary phase injury investigation.

**Duration:** The preliminary phase of the investigation usually must be completed within 45 days of the receipt

of the petition. If Commerce has extended its deadline for initiating the investigation, the ITC must make its preliminary injury determination within 25 days after Commerce informs the ITC of the initiation of the investigation.

**Finding:** The ITC determines, on the basis of the best information available to it at the time of the determination, (1) whether there is a "reasonable indication" that an industry is materially injured or is threatened with material injury, or (2) whether the establishment of an industry is materially retarded, by reason of imports under investigation by the Department of Commerce that are allegedly subsidized or sold at less than fair value in the United States.

If the ITC determination is affirmative, Commerce continues its investigation. If the ITC determination is negative, the investigation is terminated.

However, if the ITC, in making a preliminary or final determination, finds that imports from a country are negligible, then the investigation regarding those imports must be terminated. Imports from a country under investigation are deemed negligible if they amount to less than 3 percent of the volume of all such merchandise imported into the United States in the most recent 12-month period preceding the filing of the petition for which data are available.

There are exceptions to this rule. One exception is that when imports from more than one country are subject to investigation as a result of petitions filed on the same day, imports from one or more of those countries under investigation will not be deemed negligible if the sum of imports from countries subject to investigation whose imports are less than 3 percent on an individual basis collectively amounts to more than 7 percent of the volume of all such merchandise imported into the United States.

*Final Phase Countervailing Duty Investigations (Subsidized Imports) and Final Phase Antidumping Investigations (Imports Sold at Less Than Fair Value)*

**When:** After a preliminary affirmative determination by the Secretary of Commerce (or after a final affirmative determination if the preliminary determination was negative) that imported products are subsidized or are being, or are likely to be, sold at less than fair value, the ITC conducts the final phase of the injury investigation.

**Duration:** The ITC final phase injury investigation usually must be completed within 120 days after an affirmative preliminary determination by the Secretary of Commerce or within 45 days after an affirmative final determination by the Secretary of Commerce, whichever is later.

However, in cases in which the Commerce preliminary determination is negative but the Commerce final determination is affirmative, then the ITC final injury determination must be made within 75 days.

**Finding:** The ITC determines (1) whether an industry in the United States is materially injured or threatened with material injury, or (2) whether the establishment of an industry in the United States is materially retarded, by reason of imports that the Department of Commerce has determined to be subsidized or sold in the United States at less than fair value.

If the ITC determination is affirmative, the Secretary of Commerce issues a countervailing duty order (in a subsidy investigation) or an antidumping order (in a dumping investigation), which is enforced by the U.S. Customs Service. ITC determinations may be appealed to the U.S. Court of International Trade in New York City, or, in cases involving Canada and/or Mexico, to a binational panel under the auspices of the North American Free Trade Agreement. (For further information on countervailing duty investigations, see section 701 et seq. of the Tariff Act of 1930, 19 U.S.C. 1671 et seq. For further information on antidumping investigations, see section 731 et seq. of the Tariff Act of 1930, 19 U.S.C. 1673 et seq.)

*Section 753, Tariff Act of 1930 (Review Investigations)*

In the case of a countervailing duty order with respect to which an affirmative determination of material injury by the Commission was not required at the time the order was issued, interested parties may request that the Commission initiate an investigation to determine whether an industry in the United States is likely to be materially injured by reason of imports of the subject merchandise if the order is revoked. Such requests must be filed with the Commission within six months of the date on which the country from which the subject merchandise originates becomes a signatory to the Agreement on Subsidies and Countervailing Measures. (For further information, see section 753, Tariff Act of 1930, 19 U.S.C. 1675b.)

*Sunset provision*

The Uruguay Round Agreements Act, approved in late 1994, amended the countervailing duty and antidumping laws in several respects. The most significant change affecting the Commission's workload is the new provision requiring the Commission to conduct a review no later than five years after an antidumping or countervailing duty order is issued to determine whether revoking the order would be likely to lead to continuation or recurrence of dumping or subsidies and of material injury. Known as the

"sunset provision," this new requirement will result in review of all outstanding antidumping and countervailing duty orders in existence as of January 1, 1995, currently numbering about 320, by 2001 and in review of subsequently issued orders five years after they become effective. Beginning in 1998, this requirement will significantly increase the Commission's historical title VII workload of about 75 cases per year and will have a significant effect on the ITC's operations budget.

### **Section 332, Tariff Act of 1930, General Factfinding Investigations**

Under section 332, the ITC investigates a wide variety of trade matters.

**When:** Upon request from the President, the Senate Committee on Finance, the House Committee on Ways and Means, or the USTR, or upon its own motion, the ITC initiates a factfinding investigation on any matter involving tariffs or international trade, including conditions of competition between U.S. and foreign industries.

**Duration:** Unless otherwise directed, the ITC establishes an administrative deadline. Deadlines for investigations requested by the President, the USTR, or Congress are usually set by mutual agreement.

**Finding:** Unless the President or Congress directs otherwise, ITC final reports are made available to all interested parties, the general public, the President and executive departments, and Congress. Reports on matters relating to pending trade negotiations are often classified documents not subject to public view. (For further information, see section 332 of the Tariff Act of 1930, 19 U.S.C. 1332.)

### **Section 22, Agricultural Adjustment Act, Import Interference With Agricultural Programs**

Under section 22, the ITC conducts investigations at the direction of the President to determine whether products are being (or are practically certain to be) imported into the United States under such conditions and in such quantities that they render or tend to render ineffective or materially interfere with any program of the Department of Agriculture.

The ITC makes findings and recommendations to the President. The President may impose a fee or quota on the imports in question. However, no fee or quota may be imposed on any article produced by a member of the World Trade Organization. (For further information, see section 22 of the Agricultural Adjustment Act, 7 U.S.C. 624.)

### **Section 406, Trade Act of 1974, Trade With Communist Countries**

Under section 406 of the Trade Act of 1974, the Commission determines whether imports from a Communist country are causing market disruption in the United States. Section 406 investigations are similar procedurally to Commission investigations under section 201 of the Trade Act of 1974. If the Commission finds market disruption, it then makes a remedy recommendation to the President. The President makes the final decision with respect to remedy. (For further information, see section 406, Trade Act of 1974, 19 U.S.C. 2436.)

### **Section 603, Trade Act of 1974 (Preliminary Investigations), Expedition of Preliminary Investigations**

Section 603 of the Trade Act of 1974 authorizes the ITC to conduct preliminary investigations in order to expedite the performance of its functions under the Act. In recent years, the ITC has used this provision on several occasions in conjunction with section 337 of the Tariff Act of 1930 (which was amended by the Trade Act of 1974) to investigate allegations that may, with the gathering of additional information, provide a basis for an investigation under section 337. (For further information, see section 603, Trade Act of 1974, 19 U.S.C. 2482.)

## **Other Areas of Involvement Required by Statute**

### **Caribbean Basin Economic Recovery Act**

The ITC submits annual reports to Congress and the President on the economic impact on U.S. industries and consumers of the Caribbean Basin Economic Recovery Program. (For further information, see 19 U.S.C. 2704.)

### **Uniform Statistical Data**

The ITC, in cooperation with the Secretary of the Treasury and the Secretary of Commerce, establishes for statistical purposes an enumeration of articles imported into the United States and exported from the United States and seeks to establish comparability of such statistics with statistical programs for domestic production. (For further information, see section 484(f), Tariff Act of 1930, 19 U.S.C. 1484(f).)

### **Harmonized Tariff Schedule of the United States**

The ITC issues a publication containing the HTS and related material and considers questions concerning the arrangement of the HTS and the classification of articles. (For further information, see section 1207 of the Omnibus Trade and Competitiveness Act of 1988, 19 U.S.C. 3007; and sections 332(a) and 484(f), Tariff Act of 1930, 19 U.S.C. 1332(a), 1484(f).)



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## **Harmonized System Convention**

The ITC has responsibility, along with the Department of the Treasury and the Department of Commerce, to represent the U.S. government concerning the activities of the Customs Cooperation Council relating to the Harmonized System Convention and to formulate U.S. government positions on technical and procedural issues relating to the Convention. (For further information, see section 1210, Omnibus Trade and Competitiveness Act of 1988, 19 U.S.C. 3010.)

In addition, the ITC is responsible for reviewing the HTS and for recommending to the President such modifications as it considers necessary or appropriate to conform the HTS with amendments to the Harmonized System Convention, to ensure that the HTS is kept up to date, and to alleviate unnecessary administrative burdens. (For further information, see section 1205, Omnibus Trade and Competitiveness Act of 1988, 19 U.S.C. 3005.)

## **Annual Report on the U.S. Trade Agreements Program**

The ITC annually prepares for Congress and the interested public a factual report on the operation of the trade agreements program. The report contains information on U.S. participation in multilateral and bilateral trade negotiations and agreements,

as well as related material on foreign economic and trade developments and the administration of U.S. trade laws. (For further information, see section 163(b), Trade Act of 1974, 19 U.S.C. 2213.)

## **Advice Concerning Trade Negotiations**

The ITC advises the President as to the probable economic effect on domestic industries and consumers of modification of duties and other barriers to trade that may be considered for inclusion in any proposed trade agreement with foreign countries. (For further information, see section 131, Trade Act of 1974, 19 U.S.C. 2151.)

## **Generalized System of Preferences**

With respect to articles that may be considered for duty-free treatment when imported from designated developing countries, the ITC advises

President as to the probable economic effect on the domestic industry and on consumers of the removal of duty. (For further information, see sections 131 and 503, Trade Act of 1974, 19 U.S.C. 2151, 2163.)

## **Andean Trade Preference Act**

The ITC submits annual reports to Congress and the President on the impact on U.S. industries and consumers of the Andean Trade Preference Act and Andean drug crop eradication and crop substitution. (For further information, see 19 U.S.C. 3204.)

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# APPENDIX D

## REPORTS SUBMITTED TO CONGRESS ON PROPOSED LEGISLATION, FISCAL YEAR 1997

### Reports Submitted to the House on Proposed Legislation

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| <p><b>1. H.R. 1097</b><br/><i>Mr. Coble</i><br/>To suspend temporarily the duty on Tinopal CBS-X.<br/>September 11, 1997.</p> <p><b>2. H.R. 1214</b><br/><i>Mr. Bunning</i><br/>To suspend temporarily the duty on the chemical P-Toluenesulfonamide.<br/>September 11, 1997.</p> <p><b>3. H.R. 1304</b><br/><i>Mr. Ramstad</i><br/>To provide for the temporary suspension of duty on certain plastic web sheeting.<br/>September 8, 1997.</p> <p><b>4. H.R. 1548</b><br/><i>Mr. Porter</i><br/>To suspend until January 1, 2001, the duty on Diiodomethyl-p-tolylsulfone.<br/>September 11, 1997.</p> | <p><b>5. H.R. 1606</b><br/><i>Mr. LaHood</i><br/>To suspend temporarily the duty on carbamic acid (U-9069).<br/>September 11, 1997.</p> <p><b>6. H.R. 1607</b><br/><i>Mr. LaHood</i><br/>To suspend temporarily the duty on rimsulfuron.<br/>September 11, 1997.</p> <p><b>7. H.R. 1677</b><br/><i>Mr. Spratt</i><br/>To suspend temporarily the duty on certain chemicals.<br/>September 11, 1997.</p> <p><b>8. H.R. 1678</b><br/><i>Mr. Spratt</i><br/>To suspend temporarily the duty on Para ethyl phenol (PEP).<br/>September 11, 1997.</p> <p><b>9. H.R. 1742</b><br/><i>Mr. Rothman</i><br/>To suspend temporarily the duty on certain rayon yarn.<br/>September 8, 1997.</p> <p><b>10. H.R. 1793</b><br/><i>Mr. Wise</i><br/>To suspend temporarily the duty on Pyrithiobac Sodium.<br/>September 11, 1997.</p> | <p><b>11. H.R. 1875</b><br/><i>Mr. Crane</i><br/>To amend the Harmonized Tariff Schedule of the United States to allow entry of peanut butter and paste manufactured from Mexico peanuts in foreign trade zones without being subject to a tariff-rate quota.<br/>September 8, 1997.</p> <p><b>12. H.R. 1876</b><br/><i>Mr. Sensenbrenner</i><br/>To clarify that certain large components of certain scientific instruments and apparatus shall be provided the same tariff treatment as those scientific instruments and apparatus.<br/>September 8, 1997.</p> <p><b>13. H.R. 1879</b><br/><i>Mr. Castle</i><br/>To suspend temporarily the duty on Triflusulfuron Methyl.<br/>September 11, 1997.</p> <p><b>14. H.R. 1882</b><br/><i>Mr. Frelinghuysen</i><br/>To suspend temporarily the duty on certain parts for in-line skates.<br/>September 11, 1997.</p> | <p><b>15. H.R. 1886</b><br/><i>Mrs. Johnson</i><br/>To suspend the duties on Pantera.<br/>September 11, 1997.</p> <p><b>16. H.R. 1887</b><br/><i>Mrs. Johnson</i><br/>To suspend the duties on Triacetoneamine.<br/>September 11, 1997.</p> <p><b>17. H.R. 1888</b><br/><i>Mr. King</i><br/>To suspend temporarily the duty on certain twisted yarn of viscose rayon.<br/>September 8, 1997.</p> <p><b>18. H.R. 1889</b><br/><i>Mr. McDermott</i><br/>To suspend temporarily the duty on spring steel.<br/>September 11, 1997.</p> <p><b>19. H.R. 1890</b><br/><i>Mr. McDermott</i><br/>To suspend temporarily the duty on polyethylene base materials.<br/>September 11, 1997.</p> |
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<sup>1</sup> Date shown for each bill is that on which the bill report was submitted to Congress.

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| <p><b>20. H.R. 1893</b><br/><i>Mr. Ramstad</i><br/>To suspend until January 1, 2000, the duty on Tetrafluoroethylene, Hexafluoropropylene, and Vinylidene Fluoride.<br/>September 11, 1997.</p> <p><b>21. H.R. 1897</b><br/><i>Mr. Wise</i><br/>To suspend temporarily the duty on KN001 (a hydrochloride).<br/>September 11, 1997.</p> <p><b>22. H.R. 1907</b><br/><i>Mr. Tanner</i><br/>To amend the Harmonized Tariff Schedule of the United States to allow the duty-free entry of an additional quantity of green peanuts that are the product of Mexico.<br/>September 8, 1997.</p> <p><b>23. H.R. 1919</b><br/><i>Mr. Holden</i><br/>To suspend until January 1, 2001, the duty on a chemical.<br/>September 11, 1997.</p> <p><b>24. H.R. 1920</b><br/><i>Mr. Holden</i><br/>To suspend until January 1, 2001, the duty on a chemical.<br/>September 11, 1997.</p> <p><b>25. H.R. 1921</b><br/><i>Mr. Holden</i><br/>To suspend until January 1, 2001, the duty on a chemical.<br/>September 11, 1997.</p> | <p><b>26. H.R. 1922</b><br/><i>Mr. Holden</i><br/>To suspend until January 1, 2001, the duty on a chemical.<br/>September 11, 1997.</p> <p><b>27. H.R. 1923</b><br/><i>Mr. Holden</i><br/>To suspend until January 1, 2001, the duty on a chemical.<br/>September 11, 1997.</p> <p><b>28. H.R. 1924</b><br/><i>Mr. Holden</i><br/>To suspend until January 1, 2001, the duty on a chemical.<br/>September 11, 1997.</p> <p><b>29. H.R. 1925</b><br/><i>Mr. Holden</i><br/>To suspend until January 1, 2001, the duty on a chemical.<br/>September 11, 1997.</p> <p><b>30. H.R. 1926</b><br/><i>Mr. Holden</i><br/>To suspend until January 1, 2001, the duty on a chemical.<br/>September 11, 1997.</p> <p><b>31. H.R. 1927</b><br/><i>Mr. Holden</i><br/>To suspend until January 1, 2001, the duty on a chemical.<br/>September 11, 1997.</p> <p><b>32. H.R. 1928</b><br/><i>Mr. Holden</i><br/>To suspend until January 1, 2001, the duty on a chemical.<br/>September 11, 1997.</p> | <p><b>33. H.R. 1929</b><br/><i>Mr. Holden</i><br/>To suspend until January 1, 2001, the duty on a chemical.<br/>September 11, 1997.</p> <p><b>34. H.R. 1930</b><br/><i>Mr. Holden</i><br/>To suspend until January 1, 2001, the duty on a chemical.<br/>September 11, 1997.</p> <p><b>35. H.R. 1931</b><br/><i>Mr. Holden</i><br/>To suspend until January 1, 2001, the duty on a chemical.<br/>September 11, 1997.</p> <p><b>36. H.R. 1932</b><br/><i>Mr. Holden</i><br/>To suspend until January 1, 2001, the duty on a chemical.<br/>September 11, 1997.</p> <p><b>37. H.R. 1933</b><br/><i>Mr. Holden</i><br/>To suspend until January 1, 2001, the duty on a chemical.<br/>September 11, 1997.</p> <p><b>38. H.R. 1934</b><br/><i>Mr. Holden</i><br/>To suspend until January 1, 2001, the duty on a chemical.<br/>September 11, 1997.</p> <p><b>39. H.R. 1935</b><br/><i>Mr. Holden</i><br/>To suspend until January 1, 2001, the duty on a chemical.<br/>September 11, 1997.</p> | <p><b>40. H.R. 1936</b><br/><i>Mr. Holden</i><br/>To suspend until January 1, 2001, the duty on a chemical.<br/>September 11, 1997.</p> <p><b>41. H.R. 1937</b><br/><i>Mr. Holden</i><br/>To suspend until January 1, 2001, the duty on a chemical.<br/>September 11, 1997.</p> <p><b>42. H.R. 1938</b><br/><i>Mr. Holden</i><br/>To suspend until January 1, 2001, the duty on a chemical.<br/>September 11, 1997.</p> <p><b>43. H.R. 1940</b><br/><i>Mr. Nussle</i><br/>To suspend temporarily the duty on the chemical P-nitrobenzoic.<br/>September 11, 1997.</p> <p><b>44. H.R. 1945</b><br/><i>Mr. Spencer</i><br/>To amend the Harmonized Tariff Schedule of the United States to suspend temporarily the duty on certain manufacturing equipment.<br/>September 11, 1997.</p> <p><b>45. H.R. 1947</b><br/><i>Mr. Walsh</i><br/>To amend the Harmonized Tariff Schedule of the United States with respect to shadow mask steel.<br/>September 11, 1997.</p> <p><b>46. H.R. 1954</b><br/><i>Mr. Jenkins</i><br/>To suspend temporarily the duty on certain high tenacity single yarn of viscose rayon.<br/>September 8, 1997.</p> |
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**47. H.R. 1973**

*Mr. Gutknecht*

To amend the Harmonized Tariff Schedule of the United States to provide for duty-free treatment of oxidized polyacrylonitrile fibers for use in aircraft brake components.

September 8, 1997.

**48. H.R. 2041**

*Mr. Matsui*

To suspend temporarily the duty on the production of anti-cancer drugs.

September 11, 1997.

**49. H.R. 2042**

*Mr. Matsui*

To suspend temporarily the duty on the production of anti-cancer drugs.

September 11, 1997.

**50. H.R. 2043**

*Mr. Matsui*

To suspend temporarily the duty on the production of anti-cancer drugs.

September 11, 1997.

**51. H.R. 2044**

*Mr. Matsui*

To suspend temporarily the duty on the production of anti-cancer drugs.

September 11, 1997.

**52. H.R. 2045**

*Mr. Matsui*

To suspend temporarily the duty on the production of anti-cancer drugs.

September 11, 1997.

**53. H.R. 2046**

*Mr. Matsui*

To suspend temporarily the duty on the production of anti-cancer drugs.

September 11, 1997.

**54. H.R. 2047**

*Mr. Matsui*

To suspend temporarily the duty on the production of anti-HIV/anti-AIDS drugs.

September 11, 1997.

**55. H.R. 2048**

*Mr. Matsui*

To suspend temporarily the duty on the production of anti-HIV/anti-AIDS drugs.

September 11, 1997.

**56. H.R. 2049**

*Mr. Matsui*

To suspend temporarily the duty on the production of anti-cancer drugs.

September 11, 1997.

**57. H.R. 2058**

*Mr. Hoekstra*

To suspend temporarily the duty on phenmedipham.

September 11, 1997.

**58. H.R. 2059**

*Mr. Hoekstra*

To suspend temporarily the duty on ethofumesate.

September 11, 1997.

**59. H.R. 2060**

*Mr. Hoekstra*

To suspend temporarily the duty on desmedipham.

September 11, 1997.



# APPENDIX E

## TRADE LITIGATION IN FISCAL YEAR 1997

### Litigation Completed

#### Appeals Arising From Anti-dumping and Countervailing Duty Investigations

*Dastech International, Inc. et al. v. United States et al.*, Court No. 94-08-004678 (Court of International Trade)

The Court of International Trade upheld the Commission's final affirmative determination in *Sebacic Acid from the People's Republic of China*, Inv. No. 731-TA-653 [see USITC Publication 2793 (July 1994)]. Among other holdings, the Court rejected plaintiffs' contention that the Commission's majority erred by failing to address specific evidence that dissenting Commissioners found persuasive and need not rely on staff projections of a reduction in market orders, particularly where staff had indicated bases for treating the projection with caution.

*Hyundai Electronics Industries Co., Ltd. et al. v. United States et al.*,

Court No. 93-06-00319 (Court of International Trade)

These consolidated appeals challenged the Commission's final affirmative determination in *Certain Dynamic Random Access Memory Semiconductors of One Megabit and Above from the Republic of Korea*, Inv. No. 731-TA-556 [see USITC Publication 2629 (May 1993) and USITC Publication 2997 (Remand) (Oct. 1996)]. After an unopposed remand to consider the effect of the Department of Commerce's decision excluding a major foreign producer from its original determination, the Court upheld the Commission's affirmative determination. Among its holdings, the Court held that the Commission acted properly in the method it used to take into account the exclusion of the foreign producer's imports and was not required to determine the margin by which imports undersold domestic products in order to rely on underselling in finding price suppression.

*Makita Corp., Makita U.S.A., Inc., Makita Corp. of America v. United*

*States et al.*, Court No. 93-08-00451 (Court of International Trade)

The Court sustained the Commission's final affirmative determination in *Professional Electric Cutting and Sanding/Grinding Tools from Japan*, Inv. No. 731-TA-571 [see USITC Publication 2658 (July 1993)]. Holding that the Commissioners need not agree on a single definition of the domestic product like the subject imports, the Court sustained the unanimous determination by upholding the determination of three of the six Commissioners. In doing so, it found the Commission's investigation adequate, observed that a segmented market analysis was not required, and held that consistent underselling was not necessary to support a finding of significant price underselling.

*United States Steel Group—a Unit of USX Corp. et al. v. United States*, Appeal Nos. 95-1245, -1257, -1306, -1307 (Court of Appeals for the Federal Circuit)

The Court of Appeals for the Federal Circuit upheld the Court of International Trade's affirmance of the Commission's final affirmative and

negative injury determinations in *Certain Flat-Rolled Carbon Steel Products from Argentina, Australia, Austria, Belgium, Brazil, Canada, Finland, France, Germany, Italy, Japan, Korea, Mexico, the Netherlands, New Zealand, Poland, Romania, Spain, Sweden, Taiwan, and the United Kingdom*. Invs. Nos. 701-TA-319-332, 334, 336-342, 344, and 347-354 and 731-TA-573-579, 581-592, 594-597, 599-609, and 612-620 [see USITC Publication 2549 (Aug. 1992)]. While some of these determinations were upheld by the Court of International Trade without further appeal to the circuit court, domestic producers appealed the affirmance of certain negative determinations, and importers of cold-rolled products from the Netherlands and Germany challenged the Commission's affirmative determinations as to those imports. The court of appeals upheld the approach of those Commissioners who apply a one-step methodology to analyzing whether a domestic industry is materially injured by reason of unfairly traded imports. It also sustained the Commission's weighing of factors concerning the then-applicable negligibility provision of the antidumping statute. The conclusion of



these appeals completed the largest trade litigation in the Commission's history.

### Appeals Arising From Investigations Under Section 337 of the Tariff Act of 1930

*Kaken Pharmaceutical Co., Ltd. v. U.S. International Trade Commission; Hoechst Aktiengesellschaft, Hoechst Veterinar GmbH, and Hoechst-Roussel Agri-Vet Co. v. U.S. International Trade Commission, Appeal Nos. 96-1300, -1302 (Court of Appeals for the Federal Circuit)*

The Federal Circuit issued its decision affirming the Commission's negative determination in *Certain Salinomycin Biomass and Preparations Containing Same*, Inv. No. 337-TA-370 [see USITC Publication 2978 (July 1996)]. The Court affirmed the Commission's findings that the asserted patent was invalid because the patentee failed to disclose the best mode of practicing the invention and unenforceable because the patentee concealed the best strain of medium for producing the microorganism at issue.

*In Re Meta Systems and Mentor Graphics Corp., Misc. 491 (Court of Appeals for the Federal Circuit)*

Respondents before the ITC in *Certain Hardware Logic Emulation*

*Systems*, Inv. No. 337-TA-383, petitioned the Federal Circuit for a writ of mandamus to direct the ITC to vacate orders compelling production of information relating to systems and components under development. On December 20, 1996, the Court denied the petition, holding that the Commission's administrative law judge did not abuse his discretion in holding that discovery concerning such systems would be relevant to remedy.

*In Re Meta Systems and Mentor Graphics Corp., Misc. 501 (Court of Appeals for the Federal Circuit)*

The Court on March 20, 1997, denied the petition for mandamus that sought to vacate the Commission's administrative law judge's order compelling respondents to produce certain employees and consultants for depositions in Europe in connection with *Certain Hardware Logic Emulation Systems*, Inv. No. 337-TA-383. The Court held that the ALJ did not abuse his discretion in deciding that Hague Convention procedures need not be followed.

### Litigation Terminated

In addition to the cases discussed above, a number of cases were terminated during FY 1997 without final substantive decisions on the merits. Those cases are listed below:

*E.C.D., Inc. v. United States, Court No. 97-05-00802 (Court of International Trade)*

Plaintiff filed a stipulation of dismissal of its suit challenging the Commission's negative preliminary determination in *Needle Bearing Wire from Japan*, Inv. No. 731-TA-760 [see USITC Publication 3033 (April 1997)].

*Guangxi GITIC Import & Export Corp. and Guangxi Vinylon Plant v. United States, International Trade Commission, and Department of Commerce, Court No. 96-06-01579 (Court of International Trade)*

This case challenged the Commission's affirmative determination in *Polyvinyl Alcohol from the People's Republic of China*, Inv. No. 731-TA-726 [see USITC Publication 2960 (May 1996)]. The court granted defendants' motion to dismiss the action for lack of jurisdiction based on the plaintiffs' untimely filing of their summons.

*Hosiden Corporation et al. v. United States, Court No. 91-10-00720 (Court of International Trade)*

Plaintiffs filed a stipulation of dismissal of their suit challenging the Commission's final affirmative determination concerning electroluminescent displays in *High-Information Content Flat Panel Displays and Subassemblies Thereof from Japan*, Inv.

No. 731-TA-469 [see USITC Publication 2413 (Aug. 1991)].

*Huffy Bicycle Company, Murray, Inc., and Roadmaster Corporation v. United States and U.S. International Trade Commission, Court No. 96-07-01740 (Court of International Trade)*

Plaintiffs filed a stipulation of dismissal of their suit challenging the Commission's final negative determination in *Bicycles from China*, Inv. No. 731-TA-731 [see USITC Publication 2968 (June 1996)].

*Maktas Makarnacilik Ve Ticaret and Filiz Gida Sanayi Ve Ticaret v. United States, Court No. 96-08-01962 (Court of International Trade)*

Plaintiff voluntarily dismissed this case challenging the Commission's final affirmative determination in *Pasta From Italy and Turkey*, Invs. Nos. 701-TA-365-366 and 731-TA-734-735 [see USITC Publication 2971 (July 1996)].

*PMC Specialities Group, Inc. v. United States, Court No. 95-02-00139 (Court of International Trade)*

Plaintiff voluntarily dismissed this case challenging the Commission's final negative determination in *Saccharin from China*, Inv. No. 731-TA-675

[see USITC Publication 2842 (Dec. 1994)].

*United States Steel Group — a Unit of USX Corporation v. United States, Court No. 95-09-01145 (Court of International Trade)*

Plaintiffs voluntarily dismissed this case challenging the Commission's negative determination in *Oil Country Tubular Goods from Argentina, Austria, Italy, Japan, Korea, Mexico, and Spain*, Invs. Nos. 701-TA-364 and 731-TA-713 [see USITC Publication 2911 (Aug. 1995)].

### Litigation Pending at the End of Fiscal Year 1997

Cases arising from antidumping and countervailing duty investigations <sup>1</sup>	10
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Cases arising from section 337 determinations	8
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Other litigation <sup>2</sup>	4
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Total	22
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<sup>1</sup> All cases filed by different parties that have been consolidated by the court are counted as a single piece of litigation. Thus, the actual number of complaints filed is greater than the number given above.

<sup>2</sup> This category includes all cases before courts or administrative tribunals concerning administration of the agency, not challenging substantive decisions of the Commission.

By comparison, at the end of fiscal year 1996, there were 15 pending cases arising from antidumping and countervailing duty investigations, four arising from section 337 determinations, and nine cases involving non-trade subjects, for a total of 28.

## Commission and Executive Staff as of September 30, 1997

### The Commission

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Lynn M. Bragg, Vice Chairman  
Don E. Newquist  
Carol T. Crawford

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Secretary

Donna R. Koehnke

#### Office of the General Counsel

General Counsel

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Inspector General

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**END**

**08-11-98**